CLERK'S OFFICE 18820

TRANSCRIPT OF RECORD.

SUPREME COURT OF THE UNITED STATES.

OCTOBER TERM, 1901. 1902.

No. 408. 161.

T. H. KIRWAN, AS UNITED STATES SURVEYOR-GENERAL FOR THE DISTRICT OF MINNESOTA, AND THOMAS H. CROSWELL, APPELLANTS,

vs.

SIMON J. MURPHY, GEORGE O. ROBINSON, ELISHA S. FLINN, AND TEMPLE E. DORR.

APPEAL FROM THE UNITED STATES CIRCUIT COURT OF APPEALS FOR THE EIGHTH CIRCUIT.

FILED SEPTEMBER 4, 1902.

(22,903.)

SUPREME COURT OF THE UNITED STATES.

OCTOBER TERM, 1901.

No. 408.

P. H. KIRWAN, AS UNITED STATES SURVEYOR-GENERAL FOR THE DISTRICT OF MINNESOTA, AND THOMAS H. CROSWELL, APPELLANTS,

vs.

SIMON J. MURPHY, GEORGE O. ROBINSON, ELISHA A. FLINN, AND TEMPLE E. DORR.

APPEAL FROM THE UNITED STATES CIRCUIT COURT OF APPEALS FOR THE EIGHTH CIRCUIT.

INDEX.

	Original.	Print.
Caption to transcript from United States circuit court of appeals	a	a
transcript from United States circuit court	1	1
Bill of complaint	1	1
Exhibit A (certificate of register and plat of township No. 57 N., R. No. 17 W., fourth meridian)	13	13
Exhibit D (plat of township showing actual boundaries of Cedar Island Lake)	16	16
Exhibit C (application of G. G. Burns et al. for a resurvey of township 57 N., R. 17 W., St. Louis County, Minn.)	17	17
Exhibit A (plat)	21	21
Exhibit C (patent to Morris Thomas, January 30, 1884)	23	23
Exhibit K (patent to James H. Ruttle, as assignee, March 30, 1883)	24	24
Exhibit F (patent to Addison G. Petrie, February 20, 1882)	26	26
Exhibit G (patent to Henry Koecher, February 20, 1882)	27	27
Exhibit H (patent to Eric Larson, February 20, 1882)	28	28
Exhibit E (patent to James H. Ruttle, March 30, 1883)	30	30
Exhibit 1 (letter to United States surveyor-general, October 31, 1895)	31	31
Exhibit 2 (letter Acting Commissioner to surveyor-general, November 5, 1896)	33	33
Precipe for subpœna	34	34

	Original.	Print.
Caption to transcript; etc.—Continued.		
Subpœna and marshal's returns	34	34
Answer	36	36
Exhibit A (contract between the surveyor-general for Minnesota and Thomas H. Croswell, December 10, 1896)	42	42
Bond of Thomas H. Croswell	45	45
Exhibit C (decision of Secretary of the Interior in re Burns et al. vs. Murphy et al.)	51	51
Exhibit D (letter surveyor-general to Thomas H. Croswell, deputy, December 10, 1896)	55	55
Memoranda. Adjustment and reestablishment of meander and boundary line, December 3, 1896	59	59
Plat, part 1	62	62
Plat, part 2	63	63
Plat	64	64
Exhibit B (plat)	71	71
Replication	73	73
Notice of motion for temporary injunction	74	74
Affidavit of Mortimer H. Standford in support of motion for injunction	75	75
Affidavit of Merritt S. Cook in support of motion for injunction	77	77
Deposition of Elisha H. Flinn	82	82
Deposition of Simon J. Murphy	83	83
Direct interrogatories to Simon J. Murphy	83	83
Answers to direct interrogatories	84	84
Cross-interrogatories to Simon J. Murphy	87	87
Answers to cross-interrogatories	87	87
Order to show cause, etc., and marshal's returns	88	88
Affidavit of Thomas Croswell	89	89
Affidavit of John R. Van Derlip	90	90
Order denying motion to dismiss order to show cause, etc	93	93
Injunction bond	94	94
Order for injunction	97	97
Writ of injunction and marshal's returns	99	99
Stipulation as to deposition of Elisha H. Flinn, etc., and agreed statement of facts	100	100
Deposition of Elisha H. Flinn	105	105
Deposition of Simon J. Murphy	106	106
Testimony of complainants	110	110
George O. Robinson	111	111
Erwin Eveleth	117	117
Temple E. Dorr	130	130
George O. Robinson, recalled	131	131
Letter Erwin Eveleth to Robinson & Flinn, March 30, 1883	134	134
Letter Erwin Eveleth to Robinson & Flinn, March 31, 1883	134	134
Letter Erwin Eveleth to Robinson & Flinn, April 1, 1883	134	134
Certificate of Robert M. Chamberlain, notary public	134	134
Exhibit A (notice to take testimony before Robert M. Chamberlain)	135	135
Caption to testimony taken before Harry H. Lamont, notary public	137	137
Philip M. Graff	137	137
Merritt S. Cook	143	143

	Original.	Print.
Caption to transcript, etc.—Continued.		
Testimony of complainants—Continued.		
C. E. Bailey	166	166
J. D. Lamont	174	174
T. H. Croswell	177	177
Thomas H. Pressnell	177	177
J. D. Lamont, recalled	180	180
C. E. Bailey	181	181
J. D. Lamont, recalled	182	182
Certificate of Harry H. Lemont, notary public	187	187
Testimony for defendants	188	188
Caption	188	188
Thomas H. Croswell	189	189
Stipulation as to Exhibits 2 and D to answer	201	201
Certificate N Harcourt Horn, notary public	201	201
Complainants' exhibits	203	203
C. (Field notes of survey of T. 57 N., R. No. 17 W. of the fourth principal meridian	203	203
E1. (Certificate of R. W. Nichols, county surveyor)	240	240
Survey of T. 57 N., R. 17 W., March 8, 1894	241	241
E. (Proceedings of board of county commissioners of St. Louis County, February 7, 1894)	255	255
F. (Patent United States to Addison G. Petrie, February 20, 1882)	257	257
G. (Power of attorney Addison G. Petrie to C. B. Chandler, November 30, 1879)	258	258
H. (Deed A. G. Petrie and wife to P. M. Graff et al., May 26, 1880)	260	260
I. (Patent United States to Henry Koecher, February 20, 1882)	262	262
J. (Patent United States to James H. Ruttle, March 30, 1883)	263	263
K. (Patent United States to James H. Ruttle, March 30, 1883)	264	264
L. (Deed James H. Ruttle to Charles A. Moore, January 3, 1880)	266	266
M. (Deed Charles A. Moore and wife to D. E. Little et al., January 13, 1880)	267	267
N. (Deed D. E. Little et al. to A. R. Macfarlane, January 19, 1880)	269	269
O. (Deed A. R. Macfarlane to E. D. Graff, January 28, 1880)	272	272
P. (Patent United States to Eric Larson, February 20, 1882)	274	274
Q. (Patent United States to James B. Price, October 3, 1888)	275	275
R. (Deed James B. Price and wife to John McDougall, June 14, 1882)	276	276
S. (Deed John McDougall to C. N. Nelson Lumber Company, June 14, 1883)	278	278
T. (Deed C. N. Nelson Lumber Company to S. J. Murphy, December 29, 1883)	280	280
U. (Deed D. E. Little et al. to S. J. Murphy, April 11, 1883)	283	283
V. (Patent United States to Morris Thomas, January 30, 1884)	287	287
W. (Deed Morris Thomas and wife to S. J. Murphy, February 16, 1884)	288	288
X. (Patent United States to Robert Pratt, October 3, 1888)	290	290
Y. (Deed Robert Pratt to Scott Griswold, December 22, 1881)	292	292
Z. (Deed Scott Griswold and wife to S. J. Murphy, October 5, 1883)	293	293

	Original.	Print.
Caption to transcript, etc.—Continued.		
Complainants' exhibits—Continued.		
A. A. (Patent United States to Thomas W. Finn, October 3, 1888)	296	296
A. B. (Patent United States to Charles Beaulieu, October 3, 1888)	298	298
A. C. (Deed Simon J. Murphy and wife to Temple E. Dorr, September 22, 1890)	299	299
A. D. (Deed Simon J. Murphy and wife to George O. Robinson, November 2, 1889)	305	305
A. E. (Deed Security Land and Exploration Company to Simon J. Murphy et al., June 17, 1893)	309	309
Plat 1	313	313
Plat 2	314	314
Plat 3	315	315
Plat 4	316	316
Plat 5	317	317
Plat 6	318	318
Plat 7	319	319
Plat 8	320	320
Plat 9	321	321
Plat 10	322	322
Plat 11	323	323
Plat 12	324	324
Plat 13	325	325
Plat 14	326	326
Plat 15	327	327
Plat 16	328	328
Order passing cause	329	329
Argument commenced	329	329
Order, cause submitted	330	329
Opinion of the court	331	330
Notice of motion to settle decree	338	336
Proof of service of notice	339	337
Record entry of settlement of form of decree	339	337
Decree, July 23, 1900	340	338
Petition for and order allowing appeal	341	339
Assignment of errors	342	339
Stipulation as to record to be certified on appeal	345	342
Stipulation to transmit certain original exhibits to court of appeals and order thereon	345	342
Citation and admission of service	346	343
Clerk's certificate to transcript	347	344
Appearance for appellants	348	345
Appearance for appellees	348	345
Appearance of Mr. Bailey for appellants	349	346
Order of submission	349	346
Opinion of United States circuit court of appeals	351	347
Decree of United States circuit court of appeals	353	348
Petition for and order allowing appeal	353	348
Assignment of errors	355	349
Citation and admission of service	360	352
Clerk's certificate to transcript	362	353

a Pleas and proceedings in the United States circuit court of appeals for the eighth circuit, at the May term, 1901, of said court, begun and held at the United States court-house in the city of St. Paul, Minnesota, on the first Monday in May, to wit, the sixth day of May, A. D. 1901, before the Honorable Walter H. Sanborn and the Honorable Amos M. Thayer, circuit judges, and the Honorable Elmer B. Adams, district judge.

Attest:

[SEAL.] JOHN D. JORDAN,
Clerk of the United States Circuit Court of Appeals for the Eighth Circuit.

Be it remembered that heretofore, to wit, on the twenty-second day of December, A. D. 1900, a transcript of record, pursuant to an appeal allowed by the circuit court of the United States for the district of Minnesota, was filed in the office of the clerk of the United States circuit court of appeals for the eighth circuit, in a certain cause wherein P. H. Kirwan, as United States surveyor-general for the district of Minnesota, and Thomas H. Croswell were appellants, and Simon J. Murphy, George O. Robinson, Elisha A. Flinn, and Temple E. Dorr were appellees, which said transcript of record is in the words and figures following, to wit:

b United States circuit court, district of Minnesota, fifth division.

SIMON J. MURPHY, GEORGE O. ROBINSON, ELISHA H. FLINN, and TEMPLE E. DORR, complainants,
vs.
P. H. KIRWAN, UNITED STATES SURVEYOR-GENERAL for the district of Minnesota, and THOMAS H. Croswell, defendants.

M. H. Standford, Duluth, Minnesota, solicitor for complainants.

R. G. Evans, U. S. attorney, St. Paul, Minnesota, John R. VanDerlip, Minneapolis, Minnesota, and W. F. Bailey, Eau Claire, Wisconsin, solicitors for defendants.

Pleas in the United States circuit court, district of Minnesota, fifth division, in the above-entitled cause.

Be it remembered that on the 21st day of December, A. D. 1896, there was filed with the clerk of said court, by solicitor for complainants, the bill of complaint in said cause; and that on subsequent dates, as specified in the indorsements following each, other pleadings and documents in said cause as they appear in this record were filed with said clerk; and that other proceedings were had in said cause, as also appear in this record; which said bill of complaint, other pleadings and documents, and proceedings are, in words and figures, as follows, to wit:

United States of America.
United States Circuit Court, District of Minnesota,
Eighth Judicial Circuit, Fifth Division. 1

Simon J. Murphy, George O. Robinson, Elisha H. Flinn and Temple O. Dorr, Complainants,

~~In Equity~~. vs.

P. K. Kirwan, United States Surveyor General for the District of Minnesota and Thomas Coaswell, Defendants.

In Equity

To the Judges of the above entitled Court sitting in Chancery:

Come now your orators above named and for their bill of complaint herein aver:

That your orators Simon J. Murphy, George O. Robinson, Elisha H. Flinn and Temple O. Dorr, complainants herein, are all citizens and residents of the State of Michigan; that P. K. Kirwan, the above named defendant, and Thomas Coaswell defendant are both citizens and residents of the State of Minnesota, and P. K. Kirwan is United States Surveyor General of the State of Minnesota. 2

Thereupon, your orators aver that they are the owners in fee of all the certain tracts or parcels of land situated in St. Louis County, State of Minnesota, in township fifty-seven (57) north of range seventeen (17) west of the fourth principal meridian described as follows:

Commencing at the southwest corner of lot four (4) of the northwest quarter (NW ¼) of section one (1), and running thence north on the section line between said section one (1) and two (2) and to the northwest corner of said section one (1); thence west on the north line of said township to a point where said town line first meets the shore of Cedar Lake; thence turning south and following the shore of said lake to a point where the south line of said lot four (4) in said section one (1) extending westerly into said section two (2) first meets the water of said lake; thence easterly on said 3

last mentioned line to the place of beginning, the same being lots one (1), two (2) and three (3) of said section two (2) according to the government plat thereof; also commencing on the west shore of said lake at a point in said section three (3) where the west shore of said lake crosses said north town line; thence following said town line to the north east corner of lot two (2) of section four (4); thence running southerly on the east line of said lot two (2) in said section four (4), to the southeast corner thereof; thence westerly along the south boundary line of said lot two (2) to the southwest corner
4 thereof, thence southerly and to the centre of said section four (4); thence southeasterly on a straight line from (~~from~~) the centre of said section to the southeast corner thereof, until it intersects the westerly shore of said lake on said section four (4), thence in a northerly direction along the shore of said lake to the place of beginning, the same being lots one (1) and two (2) of section three (3), lot one (1) of section four (4) and a portion of lots six (6) seven (7) and the whole of lot eight (8) in said section four (4); also commencing at a point in the section line between sections four (4) and nine (9) at a point where the westerly shore of said lake crosses said line thence westerly on said section line, and to the
5 northwest corner of section nine (9) thence south on the west line of said section line to the southwest corner of the northwest quarter (NW ¼) of the southwest quarter (SW ¼) of said section nine (nine) (9); thence following the south line of said last described line and the extension thereof until it intersects the centre line running north and south through section ten (10); thence north to the centre of said section ten (10); thence easterly on the centre line of said section ten (10) to the northwest corner of the southwest quarter of section eleven (11); thence south on the west line of section eleven (11) to the southwest corner of the northwest quarter (NW ¼) of the southwest quarter (SW ¼) of said section eleven (11); thence east to the southeast cor-
6 ner of the northwest quarter (NW ¼) of the southwest quarter (SW ¼) of said section eleven (11); thence north until it intersects the southerly meander line of said lake; thence turning at right angles to said meander line and run to the shores of said lake thence westerly and following the shores of said lake to the place of beginning; that annexed hereto and made a part hereof and hereby referred to and marked Exhibit "D" is a plat of said land as near as your orators are able to determine the same; said land of your orators being marked in red and blue thereon:

That said lands prior to the matter and things hereinafter set forth were owned by the Government of the United States and were unsurveyed Government lands.

That pursuant to a contract duly made by and between the said United States Government and one Henry S. Howe, as deputy surveyor of the United States, bearing date April 26, 1876. All of said lands in said township fifty-seven (57) north of range seventeen (17) west, were surveyed which survey was completed on the 30th day of June of the same year, and the record of said survey and the field notes thereof 7
were duly approved by the Surveyor General of the United States on August 7, 1876. That from the field notes of said survey the plat of said township was duly made by the Surveyor General and submitted to the Commissioner of the General Land Office of the United States for his approval. That prior to the approval thereof and on the.....day of .....1879, complaint was duly made and filed in the department of the said United States General Land Office questioning the accuracy and good faith of said survey and requesting that the said department of the General Land Office examine into the same and suspend approval of the said plat pending such examination. That on the 11th day of June 1879, the Commissioner of said United States Gen- 8
eral Land Office denied this application, and thereupon said plat was approved notwithstanding said complaint by the proper officer of said Government of the United States, and the said plat was thereupon filed and recorded in the office of the Surveyor General of the United States of the District of Minnesota, and thereupon became and ever since, and now is, the official Government plat of said township, a true and correct transcript of which is hereunto annexed marked Exhibit "A" hereto referred to and made a part hereof and that the same is the only official Government plat of said township ever made or adopted by the government of the United States, or any of its officers thereof. That after the 9
approval and recording of said plat as aforesaid, and before the sale and disposal of any of the land in said township a duly certified copy of said official plat was made and filed in the office of the Commissioner of the General Land Office of the United States at Washington, D. C. and in the local United States land office at Duluth, Minnesota, all of said lands being then and now situated in the Duluth land district of said State.

That after the approval and recording of said Govern-

ment plat as aforesaid, and after copies thereof had been duly filed as aforesaid, and prior to April 1, 1887, all of the lands in said township were sold and disposed of by the government of the United States according to said official Government plat, and patents of said lands were duly issued therefor (the) the several purchasers thereof according to said plat.

Your orators further aver that said survey and the field notes thereof are and were inacurate and the said official
10 plat made from said field notes does not correctly delineate the sub-divisions of land in said township, or the true location of the land and water therein. That a large portion of the land in said township sold by the United States as aforesaid, according to said official plat as land yet is covered by the waters of deep and permanent lakes existing in their present form and depth at the time said survey was made and from time immemorial. That a considerable portion of the land above described, purchased by your orators as aforesaid and now owned by them, to-wit, the north half (N ½) of the south half (S ½) of said section nine (9) is, and was, at the time of said survey and was from time immemorial covered by the waters of a deep and permanent lake and
11 was purchased by your orators as land in reliance upon said official plat reference being had not only to said Exhibit "A" but also to Exhibit "D;" that your orators also purchased other lands in said township portions of which they are informed and verily believe are covered with water of deep and permanent lakes existing from time immemorial in their present form. That a considerable portion of the land of said township sold by the Government of the United States as aforesaid, according to said Government plat, the boundaries of which are the waters of said Cedar Island Lake, and said official plat does not correctly delineate or locate, and does not correctly represent the location of the
12 waters of said lake. That the lake is much smaller than it is made to appear by said official plat and that several fractional lots of your orators of which said lake is the boundary are much larger than appears from said plat and others much smaller.

That the United States in selling the land in said township according to said official plat has sold much more water as land, that is, land covered by the waters of deep and permanent lakes, than it has sold of land as water, that is, appearing on said official plat as water, yet, as a matter of

fact, no water exists on portions thereof. That annexed hereto and marked Exhibit "D" is a plat of said township showing as near as can be determined without actual Government survey thereof, as your orators are informed and verily believe, that actual locations of the various bodies of water in said township including that of Cedar Island Lake. That said Exhibit "D" is hereby referred to and made a part thereof.

Your orators further aver that the actual boundaries of said Cedar Island Lake are represented on said Exhibit "D" 13
by the red lines surrounding the words "Cedar Island Lake." That the boundaries of said Cedar Island Lake, as represented on said official plat, is represented on said Exhibit "D" by the shaded lines surrounding the said red line boundary of said Cedar Island Lake, as represented on said Exhibit "D" and corresponding to the same on said Exhibit "A." That the land marked in blue between said shore line and said red line are the lands of your orators herein in dispute, purchased by them as hereinafter set forth and which defendant now claims to be unsurveyed Government land as hereinafter set forth, and that said lands so marked blue owned by your orators as aforesaid, and lying between the
actual waters of said Cedar Island Lake, designated by said 14
red line and the boundary line of said lake, as appears by said official plat, exceed in sum the value of more than two thousand dollars ($2,000).

Your orators further aver that after said lands in said township had been surveyed and the official plat thereof adopted, approved and filed as aforesaid, the lands hereinafter described were purchased from the Government of the United States and patent therefor issued according to said official government plat of the land hereinafter described and on the dates hereinafter stated. On the 18th day of December 1882, Morris Thomas purchased the southwest
quarter (SW ¼) of northwest quarter (NW ¼) of section nine 15
(9), and lots one (1) two (2) and three (3) of section two (2) and a patent was thereupon issued to said Thomas, a copy of which patent is hereunto annexed marked Exhibit "C."

On the 29th day of December 1879 James H. Ruttle purchased lots one (1) and two (2) section ten (10), and a patent therefor was issued to said Ruttle, a copy of which patent is hereunto annexed marked Exhibit "E." That James H. Ruttle purchased the southeast quarter of the northwest

quarter and the northeast quarter of the southwest quarter of said section ten and a patent therefor dated March 30, 1883 was issued to him by the Government of the United States a copy of which is hereunto annexed marked Exhibit "K."

That Addison G. Petrie purchased of the Government of the United States lot one (1), section three (3), lot eight (8) section four (4), and lot four (4) section nine (9); and on the 20th day of February 1882, a patent therefor was duly issued
16 to said Petrie, a copy of which patent is hereunto annexed and marked Exhibit "F."

That on the 20th of February 1882, Henry Koecher purchased lot two (2), section three (3), lot one (1) section four (4), and a patent therefor was issued to said Koecher, a copy of which patent is hereunto annexed marked Exhibit "G."

That on the 29th ~~day~~ of May 1882, James B. Price purchased lot three (3), section 11 (11), lots three (3) and four (4) section ten (10) and a patent therefor was thereafter issued to said Price; that said last mentioned patent has been
17 mislaid or lost and your orators have not been able to find same after diligent search, but on the trial of this action or in interlocutory proceedings thereof where it becomes necessary to show title your orators will produce said patent or a duly certified copy of the same.

That on the 22nd of December, 1882, Robert Pratt purchased lots one (1) and two (2), section nine (9) and a patent was duly issued therefor, but said patent has also been lost or mislaid, but your orators will produce the orginal or a duly certified copy when needed.

That on the 20th ~~day~~ of February 1882, a patent of lots
18 two (2), three (3) and four (4) of section one (1) was duly issued to Eric Larson, a true and correct copy of the record of said patent being hereunto annexed and marked Exhibit "H" and said patent has been recorded in the office of the register of deeds of St. Louis County, Minnesota.

That the Government of the United States after a survey of said land and prior to April 7, 1882, conveyed to Charles Beaulion lots five (5) six (6) and seven (7) of section four (4). That all of said described copies of patents are prayed to be read as a part hereto and are hereby referred to.

Your orators further aver that they derive title to said lands as follows: A power of attorney dated November 30, 1879, from Addison G. Petrie to Columbus G. Chandler with full power to said Chandler to sell and convey said lot one (1) section three (3), lot eight (8) section four (4) and lot four (4) section nine (9). Warranty deed from Addison G. Petrie and wife by Columbus G. Chandler, attorney in fact, conveying the last above described lands to Philip M. Graff and Daniel E. Little. Warranty deed dated April 11th, 1883, executed by Philip ~~H.~~ M. Graff and Daniel E. Little conveying said last described land to Simon J. Murphy. Warranty 19
deed dated February 16, 1884, from Morris Thomas and wife to Simon J. Murphy conveying lots one (1) two (2) and three (3) of section two (2). Power of attorney from Henry Koecher and wife to Columbus G. Chandler as attorney in fact with power to convey lot two (2) section three (3), and lot one (1) section four (4), ~~said~~ Henry Koecher and wife by Columbus G. Chandler, attorney in fact, warranty deed to Philip M. Graff and Daniel E. ~~Little~~ dated May 26, 1880, conveying said last described lands to Philip M. Graff and Daniel E. Little. Warranty deed dated April .... 1883, conveying said last above described lands to Simon J. Murphy. Warranty deed from James B. Price and wife dated 20
August 16, 1882, conveying lot three (3) section eleven (11), lots three (3) and four (4) section ten (10) to John McDougall. Warranty deed from John McDougall dated June 14, 1883, conveying said last above described lands to the C. M. Nelson Lumber Company. Warranty deed from the C. M. Nelson Lumber Company dated December 29, 1883, conveying said last above described lands to Simon J. Murphy. Warranty deed dated January 30, 1880, executed by James H. Ruttle conveying lots one (1) and two (2) and the southeast quarter of the northwest quarter and the northwest quarter of the southwest quarter section ten (10) to Charles A. Moore. Warranty deed from Charles A. Moore and wife dated January 30, 1880, con- 21
veying said last above described lands to Daniel E. Little and Philip M. Graff. Warranty deed dated January 28, 1880, from Daniel E. Little and Philip M. Graff to Simon J. Murphy conveying the last above described lands. Special warranty deed from Robert Pratt dated December 22, 1881, conveying to Scott Griswold lots one (1), two (2) and three (3) section nine (9). Warranty deed from Scott Griswold and wife dated October 5, 1883, conveying said last above described lands to Simon J. Murphy. Patent from the Gov-

ernment of the United States dated October 3, 1888, to Thomas W. Finn conveying lots five (5) six (6) and seven (7) in section four (4). Warranty deed from Thomas W. Finn to John A. Kimberly dated April 16, 1883, conveying lots five (5) six (6) and seven (7) of said section four (4). Warranty deed from John A. Kimberly and wife to the Water Power Company of Cloquet dated February 16, 1883, conveying the lands (alst) above described. Warranty deed from the Water Power Company of Cloquet to Security Bank of Minnesota dated April 25, 1891, conveying lands last above
22 described. Deed from Security Bank of Minnesota dated December 23, 1891, conveying said lands last above described to James T. Hale. Deed from James T. Hale and wife dated Jan. 12, 1892, (covering) the lands last above described to the Security Land & Exploration Company. Deed from the Security Land & Exploration Company to the plaintiff in this action conveying all of lots three (3), five (5), six (6) and seven (7) lying on the northeasterly side of a line drawn from the centre of said section four (4) to the southeast corner of said section. Deed from Simon J. Murphy of all the lands hereinbefore described to Temple E. Dorr of a one-sixth (1-6) undivided interest; George O. Robinson one-
23 sixth (1-6) undivided interest and a contract to Elisha H. Flinn for the sale of an undivided one-sixth (1-6) interest. That the lands hereinbefore described were conveyed to the said plaintiffs according to the Government plat of said lands and all are situated in said township fifty-seven (57) north of range seventeen (17) west.

Your orators further aver that they became the owners of sail land by virtue of several mesne conveyances from the Government of the United States through said respective patentees to themselves. That they paid a valuable consideration for each of said respective parcels of land having purchased said lands on an actual estimate of the pine timber at
24 the time of said purchase standing on each particular description thereof and extending to the shores and actual waters of said Cedar Island Lake and to the centre of said lake. That having purchased the same in good faith believing that the respective grantors had good and perfect title to the same and to the whole thereof extending to the actual waters and shores of said lake and to the centre line of said lake and in reliance upon said Government plat. That they had no knowledge of the inaccuracy of the official survey of said township or that there was any fraud in the making of said

survey or that any fraud or inaccuracy was claimed in relation thereto at the time they made said purchase or at any other time until they learned of the application for a resurvey of said land as hereinafter set forth.

That your orators at the time they purchased said land were and now are the owners of a large amount of other lands and of pine timber standing thereon lying in township fifty-eight (58) north of range seventeen (17) west, and north of the waters of said Cedar Island Lake and the estimated amount of timber thereon at the time of said purchase and which now actually exists thereon being about sixty million (60,000,000) feet. That the said Cedar Island Lake when they purchased the lands hereinbefore particularly described and marked blue and red on said Exhibit "D" was the boundary of the same and the principal consideration that moved your orators to purchase the land so marked red and blue was that the pine timber so owned by them in township fifty-eight (58) range seventeen (17) west as aforesaid, could be lumbered and placed in said lake and through its outlet floated down the St. Louis River to market. That at the time the said purchase was made there was no other feasible means of transporting said timber to market.

Your orators further aver that the low land lying around said lake and bounded by the waters thereof which was of no particular value for pine timber was purchased by your orators in order that they might be able to construct a dam at the inlet of said lake to aid in transporting said timber to market. That the greater portion of said lands marked in blue and red on said Exhibit "D" is now and was at the time of said purchase covered with valuable pine timber. That there is not now any feasible route to transport the timber of your orators now standing on said lands herein particularly described and on your orators' lands in township fifty-eight (58) range seventeen (17) west, to market except by the water of said Cedar Island Lake and its outlet, unless your orators transport the same by rail from the railroad constructed near said lands long after your orators purchased the same. That the timber now owned by your orators, of which the waters of said Cedar Island Lake and its outlet are the only possible route of transportation to market, except by rail as aforesaid, is estimated at many million feet (feet), and the actual amount of said timber now standing upon said land herein particularly described is at least sev-

enty-five million feet as near as your orators can estimate the same, and is of the value of more than two hundred thousand dollars.

Your orators aver that some time prior to June 30, 1892, and during said year G. G. Burns, Henry Wickey, William B. Douglas, James A. Raab and Fred Nelson well knew that the lands marked blue on said Exhibit "D" as aforesaid, and herein particularly described were claimed by your orators in fee simple and that your orators became the own-
28 ers thereof under the circumstances as hereinbefore particularly described and that your orators had purchased the same relying on said Government plat believing that the said respective parcels of land were bounded by the actual shores of said lake and were owned by your orators to the centre of said lake entered upon various portions of said lands above designated in blue on said Exhibit "D" claiming the same to be unsurveyed unoccupied Government lands and they still occupy the same as your orators are informed and believe and on the 30th day of April, 1892, they jointly petitioned the then Surveyor General of the United States for the District of Minnesota that an accurate re-survey of said township fifty-eight (58) range seventeen (17) west be
29 made, a copy of which petition is hereunto annexed and made a part hereof and marked Exhibit "C" and hereby referred to. That said petitioners now have no interest or property in said land and never had any valid claim or interest therein [illegible] to any part thereof. That on the presentation of said petition said Surveyor General recommended to the Commissioner of the General Land Office of the United States that said petition be allowed.

Your orators aver that the hearing of said petition was ex parte; that your orators had no opportunity to be heard thereon. Your orators further aver that the Honorable S.W. Lamorieux, Commissioner of the General Land Office of the
30 United States on the 6th day of October, 1893, after a full consideration of the whole matter disallowed said petition and held that all the lands in said township had been disposed of by the Government of the United States and that said lands marked blue as aforesaid on said Exhibit"D" were not Government lands and that the Government of the United States had no jurisdiction over the same. An appeal was thereupon had by said petitioners to the Secretary of the Interior of the United States and such proceedings were thereafter had that on October 31, 1893, the Commissioner

of the General Land Office made and transmitted to the United States Surveyor General of the District of Minnesota an order for a re-survey of the lands herein described, a true and correct copy of which order as served on your orators by the then Surveyor General is hereunto annexed marked Exhibit "I" and made a part hereof and hereby referred to. That an appeal was thereafter taken to the Secretary of the Interior of the United States and such proceedings were thereafter had that on the 5th day of November, 1896, an order was made by E. F. Best, Acting Commissioner of the United States Land Office, and transmitted to the United 31
States Surveyor General for the State of Minnesota, ratifying and confirming such order of October 31, 1895, a true and correct copy of said order of November 5, 1895, as served on your orators by said defendant is hereunto annexed marked Exhibit "2" made a part hereof and hereby referred to. That the said order of re-survey of October 31, 1895, and the order in confirmation therof dated November 5, 1896, are null and void and all actions taken or to be taken by the said Surveyor General of the United States Land Office, the defendant herein, pursuant thereto are without authority of law and are in violation of the rights of your orators for the reasons herein set forth.

32

And your orator is also informed and verily believes that the said Surveyor General has already let a contract for the survey of said land to one Thomas Coaswell subject to certain directions from the Commissioner of the General Land Office and that your orators really believe that said Coaswell who is prayed to be made a party defendant herein is about to commence a survey of the same.

Your orators further aver that by a new survey of said lands your orators will be put to great and vexatious litigation in making proof of their title in actions against ~~said~~ parties who are wholly irresponsible.

33

That a very large amount of the timber standing as aforesaid on the land of your orators and owned by them will be destroyed in the making of such proposed survey and the remainder thereof exposed to damage by fire by reason of said re-survey and your orators will be thereby irreparably injured.

Your orators further show that in the petition for said re-survey and in all proceedings relating thereto your orators and neither of them and none of the respective patentees of

said lands or the owners thereof in your orators' chain of title as aforesaid, were charged with fraud in relation to said original survey or the making of said official plat; neither were they charged with any knowledge of said fraud or of any fraud in connection with said survey.

That pursuant to said petition and the said several orders so made and transmitted as aforesaid, the said defendant assuming to act as the Surveyor General of the United States for the District of Minnesota without authority of
34 law and in violation of the rights of your orators is now about to let a contract for a re-survey of the lands first herein particularly described and other lands and to cause the same to be surveyed assuming to act for and in behalf of the United States Government, and the said defendant, assuming to act as such Surveyor General and in behalf of the Government of the United States will let such contract and cause said survey to be made, or survey, or cause the same to be surveyed, unless restrained by an injunction of this court.

That the threatened action by the said defendants is unauthorized by law and is in violation of the rights of your
35 orators so far as it relates to the lands of your orators so designated in said Exhibit "D" in red and blue the same being a very large portion of the lands so sought to be re-surveyed. That the said defendant, said Surveyor General, has no jurisdiction or authority to survey said lands, or cause same to be surveyed, or to enter into any contract with any person to survey said lands or to perfect any contract for the survey of said lands. That in making the survey so threatened as aforesaid very much valuable timber on your orators' lands will necessarily be cut down and destroyed and the remainder thereof will be liable to injury by fire by reason of the cutting of said timber in the making of said survey and your orators will be irreparably injured thereby.
36

To the end, therefore, that the said defendants may, if they can, show why your orators should not have the relief hereby prayed for and which they can only have in a court of equity and that he may full, complete and perfect answer make to the said several matters and that the said P. K. Kirwan, Surveyor General, his agents, attorneys, solicitors, and servants may be restrained by the order and injunction of this Honorable Court from entering into any contract for the survey of the lands herein described, or from surveying

the same, or from taking any action for a survey of said lands or any part thereof, and that boundaries of said lands of your orators may be defined and set out in the decree and order of this Honorable Court and that all necessary direction may be given them for that purpose and to establish the boundaries of said lands and that your orators may be protected in the use and enjoyment of such lands so owned by them as aforesaid extending to and including the shores of said Cedar Island Lake and to the centre of said lake, and that said defendant and his successors in office may be perpetually enjoined from letting said contract for the 37
survey of said land or any part thereof, and from surveying the same or any part thereof, and that your orators may have such other and further relief as to this Court may seem meet.

May it please your Honors to grant unto your orators a writ of injunction, or other proper process, against said defendant restraining and enjoining him from any further action towards the perfection of any contract for the survey of said land, or for the making of any contract for the surveying of the same, or any part thereof, until the termination of this suit.

And may it please your Honors to grant unto your orators 38
a writ of subpoena of the United States of America issued out of and under the seal of this Honorable Court directed to the said P. K. Kirwan, said defendant, commanding him on a certain day therein to be named and under certain penalty therein to be stated to answer all and singular the premises, and to do and perform and abide such further orders, directions and decrees as may be made against them and your orators as in duty bound will ever pray.

M. H. STANFORD,
Solicitor for Complainants, 600 & 601 Torrey Bldg.,
Duluth, Minn.

EXHIBIT A.

United States Land Office, 39
Duluth, Minn., Dec. 19, 1896.

The records of this office show that the plat of Tp. 57 N., R. 17 W. 4 p. m. was filed for record August 24th, 1876, and that all Government lands therein have now been appropriated; that since March 8, 1887 there has been no entries allowed of record, there being no land subject to entry since said date.

(Signed) A. J. TAYLOR,
Register.

1883

V. 1875 P 117

certify that the abov
this Office and the
th said original
Surveyor General
St. Paul May

FOLD OUT IS TOO LARGE TO BE FILMED

EXHIBIT "C."

In the matter of the application for a re-survey of township 57, north of range 17 west, St. Louis County, Minnesota:

To the Honorable James Compton, United States Surveyor General, for the District of Minnesota:

The petition of G. G. Burns, Henry Wickey, Wm. B. Douglass, James A. Robb and Fred Nelson respectfully represents that they are citizens of the United States, and 49
of the State of Minnesota, and entitled respectively to enter the unappropriated public land of the United States; that they have (serviously) and in good faith located upon, improved and occupied, and still continue to improve and occupy several parcels of the Government land hereinafter described, situated in said township and range, in the State of Minnesota and being portions of the land shown on the map of a portion of said township hereto attached, which is marked "Exhibit A," and made a part hereof, which lie between actual shore line of the said lake as shown on the official Government map of said township the location or which is shown on said Exhibit "A" by the irregular red 50
line surrounding said lake, as shown in said Exhibit "A." That all of said land is dry land and mostly covered with timber. That they have respectively carefully examined the condition of said land, and that they verily believe that the shore line of said lake is as shown on said Exhibit "A," and always has been so. And they verily believe that said Exhibit "A" correctly shows the location of said shore line. That no survey upon the ground of any part of said township, except the township line, was ever made and that the said Government map of the said township was and is a fraud upon the Government of the United States, of the public and of your petiioners; and your petitioners ask that an
accurate re-survey of said township be made and recom- 51
mend the appointment of W. B. Patton, county surveyor of St. Louis County, Minnesota, as a proper and competent and suitable person to make such re-survey.

Wherefore, your petitioners respectfully pray that such re-survey be ordered of the said township, and that such

other proceedings be had thereunder as is consistent with law and the practice of your department.

G. A. BURNS,
FRED NELSON,
HENRY WICKEY,
JAS. A. ROBB,
WALTER S. DOUGLAS,
WM. S. DOUGLAS.

Each of the petitioners swears that they have read the
52 petition and know the contents thereof, and that the facts therein stated are true.
Sworn to this 28 and 30 day of April, 1892, before

CARL GROVER,

Notary Public, St. Louis County, Minn.

Walter S. Douglas before
JOHN — WILLIAMS,
Notary Public, St. Louis County, Minn.

State of Minnesota,
County of St. Louis.—ss.

53 Personally appeared before me E. L. Raab, who deposes and says that he is familiar with the system of United States surveys, and that for years he has been engaged in surveying and running out lines, and examining lands, and that in the month of December 1891 he was engaged in examining and tracing the town and section lines for section two (2) three (3) four (4) nine (9) and ten (10) in township fifty-seven (57) range seventeen (17) west of the fourth principal meridian in St. Louis County, State of Minnesota and that he found the lake represented on the certified United States plat now in the local land office at Duluth, to be only about one-third (1-3) the size represented on said plat, and that the
54 land remaining unsurveyed around the lake amounted to about one thousand acres; and that he found by running a direct line from the section corner of 3-4-33 & 34 to the meander corner on the town line on the east side of the lake to bear south 80 degrees east, as represented on the accompanying pencil sketch, and that he did not examine the town line to the west of section 3. And that there is no evidence of any meander corner ever having been set between sections 2 & 3-3 & 4-4 & 9-9 & 10 and 3 & 10; and he further states that there has been no forest fires since the

Government survey, and that the timber is large and healthy at all of these points and convenient to where the corner came for bearing trees. And he further states that there is no evidence that the lake ever has changed since the original survey. The shore line on the northwest side is high and dry land, and gives no evidence that the lake ever has changed perceptibly for a term of many years. And affiant further states that he measured the lake shore from the meander corner on the town line east side of the lake through sections 2, 3, 4, 9 and 10, and measured south from the corner of sections 3 & 4 on the town line to and 55
across the lake and found the corner stake in the ice, to section 3, 4, 9 & 10. He ran west to the shore between sections 4 & 9 and east between sections 3 & 10 to the lake, and from these notes sketched in the lakes. That he is fully satisfied from all this information there is over one thousand acres of land there that was never surveyed, but is represented on the plat as being in the lake.

GEO. L. SPANGLER,

E. L. RAAB,

L. G. FAULKIM.

Subscribed and sworn to before me this 29th day of February, 1892. 56

GEO. L. SPANGLER,

Notary Public, St. Louis Co., Minn.

18835

Plat Exhibit A, Annexed

Exhibit C

FOLD OUT IS TOO LARGE TO BE FILMED

Plat Exhibit A, Annexed to

Exhibit C

EXHIBIT C.

United States of America, to Morris Thomas. Patent.

Filed for record May 24, 1887 at 9 o'clock, A. M. Book C of Patents, page 350.

The United States of America, to all to whom these presents shall come—Greeting:

Certificate No. 5796.

Whereas, Morris Thomas of Saint Louis County, Minnesota, has deposited in the General Land Office of the United Staes a certificate of the Register of the Land Office at Duluth, Minnesota, whereby it appears that full payment has been made by the said Morris Thomas according to the provisions of the Act of Congress of the 24th of April, 1820, entitled "An Act making further provision for the sale of the public lands," for the southwest quarter of the northwest quarter and the northwest quarter of the southwest quarter of Section nine; the northwest quarter of the southwest quarter of section twenty-five; the southwest quarter of the southwest quarter of section thirty-four and the lots numbered one two and three of section two in township fifty-seven north of range seventeen west of the Fourth Principal Meridian in Minnesota containing two hundred and ten acres and eighty-five hundredths of an acre according to the official plat of the survey of the said lands, returned to the General Land Office by the Surveyor General, which said tract has been purchased by the said Morris Thomas. Now, know ye that the United States of America, in consideration of the premises, and in conformity with the several act of Congress in such case made and provided, have given and granted, and by these presents do give and grant, unto the said Morris Thomas and to his heirs, the said tract above described, to have and to hold the same, together with all of the rights, privileges, immunities, and appurtenances, of whatsoever nature, thereunto belonging, unto the said Morris Thomas and to his heirs and assigns forever. In testimony whereof, I Chester A. Arthur President of the United States of America, have caused these letters to be made patent and the seal of the General Land Office to be hereunto affixed.

Given under my hand at the City of Washington the thirtieth day of January in the year of our Lord one thousand eight hundred and eighty-four, and of the independence of the United States the one hundred and eighth.

(Seal) By the President: CHESTER A. ARTHUR,

By P. L. JUDD, Asst. Sec'y.

Recorded Vol. 9, page 344. S. W. Clark, Recorder of the

70 ~~State of Minneso~~ta,
General Land Office.

Indorsed: Patent. United States to Morris Thomas.

State of Minnesota, County of St. Louis—ss.

I, Peter J. Borgstrom, Register of Deeds of said County, do hereby certify that the within is a true and correct copy of the records in my office as found in Book "C" of Patents on page 350. That I have compared such copy with the original record and that it is a correct transcript therefrom.

Dated this 11th day of June, A. D. 1895.

71 P. J. BORGSTROM,
Register of Deeds.

(Seal) By B. O. LOE, Deputy.

EXHIBIT "K."

Book A of Patents, page 268.

United States of America,
to
James H. Ruttle.

Filed for record April 21st, 1883 at 10 A. M. Patent.

72 The United States of America, to all to whom these presents shall come—Greeting:

Whereas, in pursuance of the Act of Congress, approved March 3, 1855, entitled "An act in addition to certain acts granting Bounty Land to certain officers and soldiers who have been engaged in the Military Service of the United States," there has been deposited in the General Land Office Warrant No. 36351 for 80 acres, in favor of Fitch R. Hunt, Private Captain Battle's Company, Tennessee Militia War, with evidence that the same has been duly located upon

the southeast quarter of the northwest quarter and the northeast quarter of the southwest quarter of Section ten in Township fifty-seven north of range seventeen west of the fourth principal meridian in the District of lands subject to sale at Duluth, Minnesota, containing eighty acres according to the official plat of the survey of the said land returned to the General Land Office by the Surveyor General; the said warrant having been duly assigned to James H. Ruttle in whose favor said tract has been located.

Now, know ye, that there is therefore granted by the 73
Unted States unto the said James H. Ruttle as assignee as aforesaid, and to his heirs the tract of land above described.

To have and to hold, the said tract of land with the appurtenances thereof unto the said James H. Ruttle as assignee as aforesaid and to his heirs and assigns forever.

In testimony whereof, I Chester A. Arthur, President of the United States of America have caused these letters to be made patent, and the seal of the General Land Office to be hereunto affixed.

Given under my hand at the City of Washington the thir-
tieth day of March in the year of our Lord one thou- 74
sand eight hundred and eighty-three and of the Independendence of the United States the one hundred and seventh.

By the President: CHESTER A. ARTHUR,

(Seal) By O. L. JUDD, Asst Sec'y.

S. W. CLARK,
Recorder of the General Land Office.

Recorded, Vol. 549, page 488.

Indorsed: United States of America to James H. Ruttle. 75

Patent.

State of Minnesota,
County of St. Louis—ss.

I, Peter J. Borgstrom, Register of Deeds of said County, do hereby certify that the within is a true and correct copy of the records in my office, as found in Book "A" of Patents on page 268. That I have compared such copy with the

original record and that it is a correct transcript therefrom. Dated this 11th day of June, A. D. 1895.

P. J. BORGSTROM,
Register of Deeds.

(Seal) By B. O. LOE, Deputy.

EXHIBIT "F."

Book B of Patents, Page 577.

76 United States of America,
to
Addison G. Petrie.

Filed for record April 10" 1893, at 2 P. M. Patent.

The United States of America, to all to whom these presents shall come—Greeting:

Homestead Certificate No. 1006.
Application. 1540.

Whereas, there has been deposited in the General Land
77 Office of the United States, a Certificate of the Register of the Land Office at Duluth, Minnesota, whereby it appears that, pursuant to the act of Congress approved May 20th, 1862, "To secure Homesteads to actual Settlers on the Public Domain," and the acts supplemental thereto, the claim of Addison G. Petrie has been established and duly consummated in conformity to law, for the lot number one of Section three, the lot number eight of Section four, and the lot number four of Section nine in township fifty-seven north of range seventeen west of the Fourth Principal Meridian in Minnesota, containing ninety-five acres and eighty-five one hundredths of an acre, according to the official plat of the survey of said land, returned to the Gen-
78 eral Land Office by the Surveyor General:

Now know ye, that there is therefore granted by the United States unto the said Addison G. Petrie the tract of land above described;

To have and to hold the said tract of land, with the appurtenances thereof, unto the said Addison G. Petrie and to his heirs and assigns forever.

In testimony whereof, I, Chester A. Arthur, President of the United States of America, have caused these letters to be made patent, and the seal of the General Land Office to be hereunto affixed.

Given under my hand, at the City of Washington, the twentieth day of February in the year of our Lord one thousand eight hundred and eighty-two, and of the Independence of the United States for the one hundred and sixth.

By the President: CHESTER A. ARTHUR, 79
By W. H. COOK, Sec'y.
S. W. CLARK,
Recorder of the General Land Office.

(Seal)

Recorded Vol. 3, page 1.

EXHIBIT "G."

Book B. of Patents, page 576.

United States of America, Patent.
to
Henry Koecher. 80

Filed for record April 10" 1883, at 2 P. M.

The United States o fAmerica, to all to whom these presents shall come—Greeting:

Homestead Certificate No. 1004.
Application 1538.

Whereas, there has been deposited in the General Land Office of the United States a certificate of the Register of the Land Office at Duluth, Minnesota, whereby it appears that pursuant to the Act of Congress approved May 20th, 1862, "To secure Homesteads to actual settlers on the Public Domains," and the acts supplemental thereto, the claim of Henry Koecher has been established and duly consummated in conformity to law, for the lot number two of section three, and the lot number one of Section four, in township fifty-seven north of range seventeen west of the Fourth Principal Meridian in Minnesota, containing one hundred and five acres and thirty-five one-hundredths of an acre, according to the official Plat of the survey of said land returned to the General Land Office by the Surveyor General: 81

Now, know ye, that there is therefore granted by the United States unto the said Henry Koecher the land above described:

To have and to hold the said tract of land, with the appurtenances thereof, unto the said Henry Koecher and to his heirs and assigns forever.

In testimony whereof, I Chester A. Arthur, President of the United States of America have caused these letters to be made patent, and the seal of the General Land
82 Office to be hereunto affixed.

Given under my hand at the City of Washington the twentieth day of February in the year of our Lord one thousand eight hundred and eighty-two and of the independence of the United States the one hundred and sixth.

By the President: CHESTER A. ARTHUR,
(Seal) By W. H. COOK, Sec'y.

S. W. CLARK,
Recorder of the General Land Office.

Recorded Vol. 2, page 499.

83 EXHIBIT "H."

Book B of Patents, page 578.

Patent.

United States of America,
to
Eric Larson.

Filed for Record Apr. 10, 1883, at 2 o'clock P. M.

The United States of America, to all to whom these presents shall come—Greeting:

Homestead Certificate No. 1003.
84 Application 1537.

Whereas, there has been deposited in the General Land Office of the United States, a Certificate of the Register of the Land Office at Duluth, Minnesota, whereby it appears that, pursuant to the act of Congress approved May 20th, 1862, "To secure Homesteads to actual Settlers on the Public Domain," and the acts supplemental thereto, the claim of Eric Larson has been established and duly consummated in conformity to law, for the lots numbered two, three and four of Section one in township fifty-seven, north of range

seventeen west of the Fourth Principal Meridian in Minnesota, containing one hundred and twenty acres and ninety-four hundredths of an acre, according to the official Plat of the survey of the said land, returned to the General Land Office by the Surveyor General:

Now, know ye, that there is therefore granted by the United States unto the said Eric Larson the tract of land above described:

To have and to hold the said tract of land, with the appurtenances thereof, unto the said Eric Larson and to his 85
heirs and assigns forever.

In testimony whereof, I Chester A. Arthur, President of the United States of America have caused these letters to be made patent, and the seal of the General Land Office to be hereunto affixed.

Given under my hand at the City of Washington the twentieth day of February in the year of our Lord one thousand eight hundred and eighty-two, and of the Independence of the United States the one hundred and sixth.

86

By the President: CHESTER A. ARTHUR,
(Seal) By W. H. COOK, Sec'y.

S. W. CLARK,
Recorder of the General Land Office.

Recorded Vol. 2, Page 498.

Indorsed: U. S. of A. to Eric Larson. Patent.

State of Minnesota,
County of St. Louis—ss.

I, Peter J. Borgstrom, Register of Deeds of said County, 87
do hereby certify that the within is a true and correct copy of the records in my office, as found in Book B of Patents on page 578. That I have compared such copy with the original record and that it is a correct transcript therefrom.

Dated this 11th day of June, A. D. 1895.

P. J. BORGSTROM,
Register of Deeds.

(Seal) By B. O. LOE, Deputy.

EXHIBIT "E."

Book B of Patents, page 307.

United States of America, Patent.
to
James H. Ruttle.

Filed for record April 21st, 1883, at 10 o'clock A. M.

88 The United States of America, to all to whom these presents shall come—Greeting:

Certificate No. 2086.

Whereas, James H. Ruttle of St. Louis County, Minnesota has deposited in the General Land Office of the United States a certificate of the Register of the Land Office at Duluth, Minnesota, whereby it appears that full payment has been made by the said James H. Ruttle according to the provision of the Act of Congress of the 24th of April, 1820, entitled "An Act making further provision for the sale of the Public Lands," for the lots numbered one and two of
89 Section ten in township fifty-seven north of range seventeen west of the Fourth Principal Meridian in Minnesota cotaining sixty-eight acres according to the official plat of the survey of said lands, returned to the General Land Office by the Surveyor General which said tract has been purchased by the said James H. Ruttle.

Now know ye, that the United States of America, in consideration of the premises and in conformity with the several acts of Congress in such case made and provided, have given and granted and by these presents do give and grant unto the said James H. Ruttle, and to his heirs, the said tract above described:
90

To have and to hold the same ,together with all the rights, privileges, immunities and appurtenances, of whatsoever nature, thereunto belonging, unto the said James H. Ruttle, and to his heirs and assigns forever.

In testimony whereof, I Chester A. Arthur, President of the United States of America, have caused these letters to be made patent, and the seal of the General Land Office to be hereunto affixed.

Given under my hand at the City of Washington the thirtieth day of March in the year of our Lord one thousand eight hundred and eighty-three and of the independence of the United States the one hundred and seventh.

By the President: CHESTER A. ARTHUR,
(Seal) By O. L. JUDD, Asst Sec'y.

S. W. CLARK,
Recorder of the General Land Office.

Recorded Vol. 5, page 306. 91

EXHIBIT 1.

October 31st, 1895.

The U. S. Surveyor General,
St. Paul, Minnesota.

Sir: Referring to the records and papers in the matter of the hearing on the petition of G. A. Burns et al., received with your letter dated September 9th, 1895, an application for an oral argument by Copp & Luckett, attorneys for opposing claimants, was allowed and the hearing was set for October 23rd last (passed). At said hearing Mr. John R. 92
Van Derlip appeared in behalf of the petitioners and Copp & Luckett, attorneys for Murphy et al., were present and submitted argument on certain legal points involved in the case.

After a full presentation of views by the attorneys for contestants I concluded that a survey should be made of the public lands lying between the pretended old meander line of 1876 and the shore line of Cedar Island Lake in township 57 N., range 17 W., 4th principal meridian, State of Minnesota.

Therefore you will enter into a contract with a surveyor 93
of integrity and ability to survey the public land designated above; the expense of said survey will be chargeable to the appropriation for survey of public lands for the current fiscal year.

Briefly stated said survey will require:

1. Re-establishment of certain section, quarter section and meander corners on the north boundary of the township (57 N., R. 17 W.)

2. The temporary establishment of the corners of:
Sections 1, 2, 11 and 12;
Sections 11, 12, 13 and 14;
Sections 10, 11, 14 and 15;
Sections 9, 10, 15 and 16;
Sections 4, 5, 8 and 9 and the quarter section corners between sections 8 and 9, and 9 and 10.

5. The establishment of permanent meander corners and the survey and permanent marking of the meander line
94 of Cedar Island Lake, as given by the original field notes of Henry S. Howe, U. S. Deputy Surveyor, approved by the Surveyor General for Minnesota, August 19, 1876. For the sake of brevity and definite description, said established meander line will be known and described as the Old Meander Boundary between the patented land and the public land to be surveyed as herein provided for.

4. The establishment of proper permanent meander corners at ordinary high-water mark on the shore of Cedar Island Lake and the meandering of said shore line on the ground at ordinary high water mark.

95 5. The subdivision of all lands between the Old Meander Boundary and the ordinary high water mark of the lake.

The surveys specified in the first three of the above paragraphs will be made to conform strictly to the original field notes of said surveys, referred to in paragraph three, while all surveys on the lake side of the "Old Meander Boundary" will be made as directed by the Manual of 1894."

It is evident that the "Old Meander Boundary," when surveyed according to the original field notes, will not close on the meander corners. To provide for this contingency you will please give in the special instructions, definite and
96 detailed instructions (and an example illustrative of the same) to guide the deputy. This is a subject not mentioned or even referred to in the Manual or in any of the text books in general use; and as the requisite instructions for the execution of the work will require an unusual application of well known principles, it is possible your office assistants may be without the necessary information to prepare instructions which will pass a critical examination in this office and receive approval.

EXHIBIT 2.

November 5, 1896.

The U. S. Surveyor General:
St. Paul, Minn.

Sir: Office letter "E" dated October 31, 1895, authorized you to enter into a contract for survey of certain lands in township 57 N., range 17 W., 4th principal meridian, State of Minnesota.

January 2, 1896, Messrs. Copp & Luckett, attorneys for 97
Simon J. Smith and others in the case of Burns et al. vs. Murphy et al. filed an appeal from my action in ordering the survey mentioned above.

Office letter "E" of January 9, 1896, directed suspension of all proceedings in regard to the survey; and the appeal and all papers in the case were on April 22nd last (passed), submitted to the Honorable Secretary for his action thereon.

I am now in receipt of the letter and decision by the Secretary dated October 29, 1896, which concludes as follows:

"The Department will not, therefore, go into a discussion of the question of riparian proprietorship and it appearing 98
that counsel for the defendants admit that the facts alleged as a basis for the original ordering of a hearing are in fact true, the decision of your office appealed from is affirmed."

The propriety of my action in ordering the survey in question, having been affirmed as above, you will please notify the parties in interest (Messrs. Copp & Luckett excepted) of the action taken, and proceed to perfect the contract for the survey already authorized.

The rate of compensation to be allowed and the additional instructions requested in your letter dated November 7, 1895, will be made the subject of another communication.
99

A copy of the Secretary's letter is enclosed herewith.

Very respectfully,
E. F. BEST,
Acting Commissioner.

State of Minnesota,
County of St. Louis.—ss.

Mortimer H. Stanford being duly sworn deposes and says, that he is solicitor for the complainants in the above en-

titled action; that said complainants are all absent from the State of Minnesota; that deponent also has particular knowledge of the facts therein stated; that he has read the foregoing bill by him subscribed; that the same is true of his own knowledge except as to the matters therein stated to be on information and belief and as to these matter he believes them to be true.

MORTIMER H. STANFORD.

Sworn and subscribed to before me this 21st day of Dec. A.
100 D. 1896.

(Notarial Seal) OSCAR MITCHELL,
Notary Public, for St. Louis County, Minn.

Indorsed: Filed Dec. 21st, 1896. Oscar B. Hillis, Clerk. By L. Davies, Deputy.

United States Circuit Court, District of Minnesota, Fifth Division.

PRAECIPE FOR SUBPOENA.

101 Simon J. Murphy, Temple E. Dorr, George O. Robinson, Elisha H. Flinn, Complts.

In Equity. vs.

P. K. Kirwan, Surveyor General and Thomas Coaswell, Defts.

To the Clerk of said Court:

Please issue subpoena in the above entitled cause.

Dated at Duluth this 21st day of December., 1896.

M. H. STANFORD,
Solicitor for Complts.

102 Indorsed: Filed Dec. 21st, 1896. Oscar B. Hillis, Clerk. By L. Davies, Deputy.

United States of America, District of Minnesota, Fifth Division. In Equity.

The President of the United States of America to P. K. Kirwan as United States Surveyor General for the District of Minnesota, and Thomas Coaswell—Greeting:
You are hereby commanded to be and appear at rules, to

be held at the office of the clerk of the Circuit Court of the United States, for the District of Minnesota, on the first Monday of February next, at the City of Duluth, then and there to answer the bill of complaint of Simon J. Murphy, George O. Robinson, Elisha H. Flinn and Temple E. Dorr, citizens of the State of Michigan, filed against you on the 21st day of December, A. D. 1896; hence fail not.

Witness, the Honorable Melville W. Fuller, Chief Justice of the Supreme Court of the United States, the 21st day of December, 1896.

103

(Seal U. S. Cir. Ct.)

Issued at my office in the City of Duluth, under the seal of said Circuit Court, the day and year last aforesaid.

OSCAR B. HILLIS, Clerk.
By L. DAVIES, Deputy.

Memorandum: The above named defendants to enter their appearance in this suit in the clerk's office aforesaid, on or before the day at which this writ is returnable; otherwise the bill may be taken pro confesso.

OSCAR B. HILLIS, Clerk. 104
By L. DAVIES, Deputy.

M. H. STANFORD,
Complainants' Solicitor.

United States of America,
District of Minnesota—ss.

I hereby certify and return that I served the annexed chancery subpoena on the therein named defendant Thomas Caswell, whose true name is Thomas H. Croswell by handing to and leaving a true and correct copy thereof with him personally at 4 mi. E. of Eveleth in said District on the 23rd day of December, A. D. 1896.

105

R. T. O'CONNOR, U. S. Marshal.
By T. J. SHEEHAN, Deputy.

Fees, $28.66.

United States of America,
District of Minnesota—ss.

I hereby certify and return that I served the annexed chancery subpoena on the therein named defendant P. K. Kirwan as United States Surveyor General for the District

of Minnesota by handing to and leaving a true and correct copy thereof with him personally at St. Paul, in said District on the 22nd day of December, A. D. 1896.

R. T. O'CONNOR, U. S. Marshal.
By J. M. REDDING, Deputy.

Indorsed: Returned into the clerk's office and filed this 2nd day of January, A. D. 1897. Henry D. Lang, Clerk. By L. Davies, Deputy.

106

United States of America.

United States Circuit Court, District of Minnesota, Eighth Judicial Circuit, Fifth Division.

Simon J. Murphy, George O. Robinson, Elisha H. Flinn and Temple O. Dorr, Complainants,

~~In Equity~~. vs.

P. K. Kirwan as United States Surveyor General for the District of Minnesota, and Thomas Coaswell, Defen-
107 dants. In Equity

The joint and several answer of the defendants P. H. Kirwan in the bill of complaint herein called P. K. Kirwan, and Thomas H. Croswell, in the complaint herein called Thomas Coaswell.

I.

The defendants admit the citizenship and residence of the parties as set out in said bill, and that the defendant Kirwan is United States Surveyor General of the State of Minnesota.

108 The defendants aver that said Kirwan was duly appointed such Surveyor General by the President of the United States, by and with the consent of the Senate of the United States, and was duly commissioned as such officer and has duly qualified as such and entered upon the discharge of the duties pertaining to said office and is now performing the same; that the defendant Thomas H. Croswell is a deputy surveyor of the United States duly appointed and authorized as such by a contract and bond, of which a copy is hereto attached, and made a part of this answer, and marked Ex-

hibit "A," which contract was duly approved by the Commissioner of the General Land Office, as provided by law.

II.

The defendants admit that the lands described in the complaint have been unsurveyed lands, owned by the Government of the United States; that on or about April 26th, 1876, a contract for the survey of all the lands in township 57 North of range 17 West in St. Louis County, Minnesota, was made by the Government of the United States with one Henry S. Howe as a deputy surveyor of the United States. 109

These defendants aver that said Howe never surveyed any of the lands in said township 57; that he ran the exterior boundaries of said township only and made no subdivision as required by his contract or rules and regulations of the General Land Office, or at all, within the boundaries of said township and that no government survey of the lands in said township has ever been made.

These defendants admit that said Howe fraudulently made and filed pretended field notes of a survey of said township and that a plat was thereafter made therefrom 110
and ~~and~~ approved by the Surveyor General for the District of Minnesota on August 7th, 1876, but the defendants aver that said field notes were false and fictitious and the plat thereon based was made from said field notes in the office of said Surveyor General and was and is false and incorrect.

The defendants admit that the Commissioner of the General Land Office approved said survey and plat after complaints were brought to his notice touching the accuracy thereof; but allege that said complaints were withdrawn by the person presenting them before such approval; they admit that Exhibit "A" attached to the bill is a substantially 111
correct transcript of said plat; and that said approved plat was thereafter certified and filed as alleged in said bill.

III.

These defendants deny that thereafter at any time all of the lands in said township were sold and disposed of by the government of the United States, but allege that about twelve hundred acres of land in sections 2, 3, 4, 9, 10 and 11 of said township 57 were never sold, disposed of or

patented by the Government, and are still unsurveyed land belonging to the Government of the United States, and lying between the shore of Cedar Island Lake and Government lots 1, 2, 3, 4, 5 and 6 in section 2, lots 1 and 2 in section 3, lots 1 to 8 in section 4, lots 1 to 4 in section 9, lots 1 to 4 in section 10, and lots 1, 2 and 3 in section 11, all inclusive, a part of which Government lots have been patented and conveyed to the complainants. That said unsurveyed land is the land referred to in Exhibit "A" attached to this answer and these defendants aver that by the plat made from the
112 field notes of said Howe all of said unsurveyed land is indicated as being a part of said Cedar Island Lake.

These defendants aver that none of the fractional lots conveyed to plaintiffs are smaller in area than as shown on said plat of said Howe survey.

IV.

The defendants admit that other deep and permanent lakes in different parts of said township which are not shown upon the plat of said Howe survey exist, and that the Government has patented territory covered by said lakes as land in accordance with the plat of said Howe survey.
113

V.

The defendants aver that the true relative size and the contour of said Cedar Island Lake is as shown by the plat hereto attached and marked Exhibit "B," and made a part of this answer, and that the land shown on said Exhibit "B" lying between the water line of said lake and the boundary line of the fractional lots surrounding the same is the twelve hundred acres of unsurveyed Government land herein referred to. These defendants admit that the portion of said land claimed by complainants is of greater value than two thousand (2,000) dollars.
114

VI.

These defendants deny any knowledge or information sufficient to form a belief as to the patenting of the Government lots shown upon the plat of said Howe survey, or of the mesne conveyances from the patentees thereof to the complainants, and put complainants to the proof thereof upon the trial of this action if they be so advised.

But these defendants expressly aver that no lands in sections 2, 3, 4, 9, 10 and 11 of said township 57 have ever been

patented by Government or conveyed to the complainants, or to any one except the fractional government lots in said sections as delineated upon the plat of said Howe survey.

And these defendants deny that they have any knowledge or information sufficient to form a belief as to what consideration, if any, was paid by the complainants, or any of them, for any conveyance to the complainants, or any of them, of any part of the lands described in the bill, or as to whether the complainants purchased any of said lands in good faith, or otherwise, or for the reasons stated in said bill, or otherwise. 115

VII.

These defendants aver that they are informed and believe that some time prior to June 30th, 1892, certain men settled upon the unsurveyed land hereinbefore described and they and others have since continued to occupy the same, at least in part.

VIII.

These defendants allege that they are informed and believe that in or about the month of June, 1892, certain of the 116 settlers upon said unsurveyed lands did file a petition with the Commissioner of the General Land Office at Washington, D. C., asking that said land be surveyed; that thereafter said petition was denied.

These defendants futher aver that on or about the 14th day of August, 1893, certain of the settlers upon said lands filed another petition with said Commissioner of the General Land Office praying that a hearing might be ordered to investigate the character of said lands and, if they were found to be unsurveyed land, that a survey thereof might be ordered.

On or about October 6th, 1893, said petition was denied 117 by the Commissioner; that the hearing upon said petition before said Commissioner was ex parte; on or about December 15th, 1893, an appeal from the said decision of said Commissioner was duly taken to the Secretary of the Interior; that upon said appeal the complainants in this action were represented by Messrs. Copp & Luckett, attorneys practicing before the departments of the United States at Washington, and opposed said appeal by oral argument and by written brief filed with the Secretary of the Interior; there-

after and on or about January 19th, 1895, the Secretary of the Interior duly filed his order reversing the decision of said Commissioner, and directing that a hearing be had to ascertain the facts in respect to such lands.

Said decision of the Secretary is duly reported in 20th Land Decisions at page 28, and reference is hereby made thereto for fuller information concerning the same.

On or about March 2nd, 1895, the complainants, by their
118 said attorneys duly made application to the Secretary of the Interior for a re-hearing upon said appeal, and on or about April 8th, 1895, and order was filed by the Secretary denying said application.

These defendants further aver, upon information and belief, that on the 12th and 13th days of June, 1895, the hearing ordered by the Secretary was duly had before the Surveyor General for the District of Minnesota, at the City of Duluth, Minnesota, and that at said hearing the complainants in this suit duly appeared by M. H. Stanford, their attorney and examined and cross-examined the witnesses
119 produced at said hearing; that thereafter the Surveyor General duly made and filed with the Commissioner of the General Land Office his report of said hearing and his recommendation that the land referred to be deemed unsurveyed government land, and that a survey thereof be ordered by the said Commissioner.

On or about the 16th day of September, 1895, the complainants in this action by M. H. Stanford, as one of their attorneys, appealed from the report and recommendation of the Surveyor General to the Commissioner of the General Land Office; said appeal was thereafter duly argued before said Commissioner and on October 31st, 1895, said Commis-
120 sioner made and filed his decision approving the report and recommendation of said Surveyor General and ordered that a survey of said lands in township 57 be made. From said order and decision of the Commissioner of the General Land Office the complainants in this suit thereafter duly filed and took their appeal to the Secretary of the Interior on or about January 2nd, 1896, and such proceedings were had therein, that on or about the 29th day of October, 1896, the Secretary of the Interior duly made and filed his decision affirming the decision appealed from.

A copy of said decision of the Secretary of the Interior is hereto attached and hereby referred to and made a part of this answer, and marked Exhibit "C."

Thereafter and in pursuance of said decision the Commissioner of the General Land Office made and transmitted to the defendant Kirwan, as United States Surveyor General, as aforesaid, his order for the making of a survey of said lands of which Exhibit "2" attached to the bill in this suit is a copy.

The defendants aver that pursuant to said order of No- 121
vember 5th, and not otherwise, the contract for a survey of said lands was made by said Surveyor General and the defendant Croswell as aforesaid.

And these defendants further aver that said Secretary of the Interior and Commissioner of the General Land Office had full and ample authority and jurisdiction to pass upon the questions presented to them in said proceedings, and to make the orders and decisions hereinbefore referred to, and each of them.

IX.

These defendants deny that a large, or any, amount of 122
timber standing on the lands of the complainants or the lands described in the bill will be destroyed or damaged in making said survey, and allege that said survey was already commenced at the time of the service of the order to show cause herein and was so far conducted and if continued, will be hereafter conducted, in accordance with the instructions prepared and delivered to said defendant Croswell by the Surveyor General, of which a copy is hereto attached, and hereby referred to and made a part hereof, and marked Exhibit "D."

X.

123

Except as hereinbefore averred or admitted, these defendants deny each and every allegation, matter and thing alleged or set out in said bill.

EDWARD C. STRINGER,
P. H. Kirwan United States Attorney, Solicitor for Defendants.
THOMAS H. CROSWELL,
P. H. KIRWAN,
JOHN R. VAN DERLIP, of Counsel.

State of Minnesota,
County of Ramsey—ss.

P. H. Kirwan, being first duly sworn, says, that he is one of the defendants named in the foregoing joint and several answer of himself and Thomas H. Croswell; that the contents of said answer, as far as concerns the acts and deeds of the defendants are true of affiant's own knowledge, and that what relates to the acts and deeds of any other person or persons, he believes to be true.

124 P. H. KIRWAN.

Subscribed and sworn to before me this 6th day of January, 1896.

HENRY D. LANG,
Clerk U. S. Circuit Court,
For the District of Minnesota.

Seal
U. S. Cir. Ct.
3rd Div.

State of Minnesota,
County of Hennepin—ss.

Thos. H. Croswell, being first duly sworn says that he is one of the defendants named in the foregoing answer, that
125 the contents of said answer, as far as concerns the acts and deeds of the defendants are true of affiant's own knowledge, and that what relates to the acts and deeds of any other person or persons, he believes to be true.

THOMAS H. CROSWELL.

Subsribed and sworn to before me this 7th day of January, 1897.

JOHN R. VAN DERLIP,
Notary Public, Hennepin Co., Minn.

EXHIBIT "A."

126

This agreement, made this tenth day of December, 1896, between the Surveyor General of the United States for Minnesota, acting for and in behalf of the United States, of the one part, and Thomas H. Croswell, Deputy Surveyor, of the other part—

Witnesseth, that the said Thomas H. Croswell, for and in consideration of the conditions, terms, provisions, and covenants hereinafter expressed, and according to the true intent and meaning thereof, doth hereby covenant and agree

with the said Surveyor General, in his capacity aforesaid, that he the said Thomas H. Croswell, in his own proper person, with the assistance of such chainmen, axmen, flag bearers, and moundmen as may be necessary, in strict conformity with the laws of the United States, the printed Manual of Surveying instructions as revised and approved June 30, 1894, and other surveying instructions issued by the Commissioner of the General Land Office, and with such special instructions as he may receive from the said Surveyor General in conformity therewith (all of said instructions to be taken and deemed a part of this contract), will well, truly, 127
and faithfully survey, mark, and establish all the boundaries and subdivisions and meander lines of the public lands situate in Secs. 2, 3, 4, 9, 10 and 11 in Township No. 57, N. R. 17 W. of the 4" principal meridian lying between the "Old Meander Boundary" of Cedar Island Lake, as given by the original field notes of Henry S. Howe, U. S. Deputy Surveyor, approved by the Surveyor General of Minnesota, Aug. 19, 1876, and the shore line of said Cedar Island Lake, and that he will complete these surveys in the manner aforesaid, and return the true and original field notes thereof to the office of the said Surveyor General on or before the first day of February next ensuing the date hereof, on penalty of for- 128
feiture, and paying to the United States the sum mentioned in the annexed bond, if default be made in any of the foregoing conditions. And it is further expressly stipulated and made a condition of this contract, that the surveys herein described shall not be commenced before the said Thomas H. Croswell shall have been officially notified by the said Surveyor General of the approval of this contract by the Commissioner of the General Land Office.

And the said Surveyor General, in his official capacity aforesaid, covenants and agrees with the said Thomas H. Croswell that on the completion of the surveys above named, in the manner aforesaid, there shall be paid to the said Thomas H. Croswell by the Treasury Department of the 129
United States, as a full compensation for all work performed under this agreement, at the rate of nine dollars for Base, Standard, Meridian, and Meander lines, seven dollars for Township lines, and five dollars for Section and connecting lines, except where the lines of survey pass over mountainous lands, or lands heavily timbered, or covered with dense undergrowth, and in such case at the rate of thirteen dollars for Base, Standard, Meridian, and Meander lines, eleven dollars for Township lines, and seven dollars for Section and

connecting lines, per mile, for every mile and part of a mile actually run and marked in the field, random lines and offsets not included. Estimated liability, $400.00.

Provided, however, that no payment shall be made until the plats and field notes of the survey executed under this contract shall have been accepted by the Commissioner of the General Land Office.

It is further agreed by and between the parties to this agreement that no accounts shall be paid unless properly certified by the Surveyor General (or his successor in office)
130 that the surveys are in accordance with the instructions herein referred to and the provisions of this agreement, and until approved plats and certified transcripts of field notes of the surveys for which the accounts are rendered are filed in the General Land Office.

And it is further understood and agreed by and between the parties to this agreement that the said surveys will not be approved by the said Surveyor General (or by his successor in office) unless they shall be found to be in exact accordance with the instructions hereinbefore specified: Provided, also, that no member of (or delegate to) Congress or subcontractor shall be admitted to any share or part of this contract or to any benefit to arise thereupon, and that no
131 payment shall be made for any surveys not executed by the said Deputy Surveyor Thomas H. Croswell in his own proper person.

In testimony whereof, the parties to these articles of agreement have hereunto set their hands and seals the day and year first above written.

PATRICK H. KIRWAN, (Seal)
U. S. Surveyor General for Minnesota.
THOMAS H. CROSWELL, (Seal)
U. S. Deputy Surveyor.

Signed, sealed and acknowledged before us:
BENJAMIN C. BALDWIN,
132 Residence: St. Paul, Minn.
JOHN A. LARSON,
Residence: St. Paul, Minn.
Witnesses to Surveyor General's Signature.
E. R. MOORE,
Residence: St. Paul, Minn.
IMSLEY SONER,
Residence: Minneapolis.
Witnesses to Deputy Surveyor's Signature.
Bond.

Know all men by these presents, that we, Thomas H. Croswell, of St. Paul, Minnesota, as principal, and Daniel M. Robbins, of St.Paul, Minnesota, and Charles A. Magnuson,of St. Paul, Minnesota, as sureties, are held and firmly bound unto the United States of America in the sum of eight hundred dollars, lawful money of the United States, for which payment well and truly to be made, we bind ourselves, our heirs, executors, and administrators, and each and every one of us and them, jointly and severally, firmly by these presents.

Signed with our hands and sealed with our seals this 10th day of December, 1896. 133

The condition of the above obligation is such, that if the above-bounden Thomas H. Coswell, Deputy Surveyor, shall well, truly, and faithfully, according to the laws of the United States, the printed Manual of Surveying Instructions, and other surveying instructions issued, or which may hereafter be issued, by the Commissioner of the General Land Office, and to such special instructions as he may receive from the Surveyor General in conformity therewith, make and execute the surveys which are required of him to be made by the foregoing contract, and return the true field notes of the said surveys to the Surveyor General in the 134 manner and within the period named in the said contract, then this obligation to be void; otherwise it shall remain in full force and virtue.

THOMAS H. CROSWELL, (L. S.)
DANIEL M. ROBBINS, (L. S.)
CHARLES A. MAGNUSON, (L. S.)

Signed, sealed, and acknowledged before us:

E. R. MOORE,
Residence: St. Paul, Minn.

OMISLEY SOULEE.
Residence: Minneapolis. 135

*Attach an adhesive seal after each signature and covering L. S.

Affidavits of Sureties.

State of Minnesota,
County of Ramsey—ss.

I, Daniel M. Robbins, one of the sureties on the official bond of Thomas H. Croswell, as U. S. Deputy Surveyor, do

depose and say that I am worth, in unincumbered property, not exempt from execution under the laws of the State of Minnesota, ten thousand dollars and upward, after payment of my just debts and liabilities, as follows:

Real estate, valued at $5000.00, and consisting of* 63-81 undivided interest in lots 68, 69, 70, 71 and 72, Hewitt's outlots (1st Div.) City of St. Paul, improved.

Personal estate valued at $5000.00 and consisting of! stock in Northwestern Elevator Co., of Minneapolis, Minn.

136

Signature: DANIEL M. ROBBINS,
(Post-office address:) St. Paul, Minn.

Sworn to and subscribed before me this 10th day of December, 1896.

E. R. MOORE,
(Seal) Notary Public, Ramsey Co., Minn.

*Here state whether city property, improved or unimproved or improved farms or unimproved lands, and where situated.

!Here describe the nature of the property; whether bonds,
137 stocks, merchandise, etc.

Department of the Interior,
General Land Office,

St. Paul, Minn, January 4, 1897.
Office of U. S. Surveyor General.

I hereby certify that I have compared the hereunto attached Contract and Bond with the originals thereof on file in my office and that the attached is a true and correct copy of said originals.

P. H. KIRWAN,
138 U. S. Surveyor General for Minn.

State of Minnesota,
County of Ramsey—ss.

I, Charles A. Magnuson, one of the sureties on the official bond of Thomas H. Crosswell, as U. S. Deputy Surveyor, do depose and say that I am worth, in unincumbered property, not exempt from execution under the laws of the State of Minnesota, eleven thousand dollars and upward, after payment of my just debts and liabilities, as follows:

Real estate, valued at $6000,00, and consisting of* dwelling house and lots 7 and 8, block 9, Merriam Park, St. Paul.
Personal estate, valued at $5000.00, and consisting of stock in Northwestern Elevator Company, Bank of Merriam Park, Minnesota Transfer Land Company, National Historical Publishing Co.

Signature: CHARLES A. MAGNUSON,
(Postoffice address:) 1909 Rondo St., St. Paul, Minn.

Sworn to and subscribed before me this 10th day of December, 1896. 139

E. R. MOORE,
(Seal) Notary Public, Ramsey Co., Minn.

State of Minnesota,
County of Ramsey—ss.

I, Edward G. Rogers, Clerk of Dist. Court, do hereby certify that E. R. Moore, who administered the above oath, was, at the time of doing so, a Notary Public in and for said Ramsey County and State of Minn., duly qualified to act as such and that I believe his signature as above written is genuine. 140

In testimony whereof, I have hereunto set my hand and affixed the seal of the Dist. Court this 11th day of December, one thousand eight hundred and nine-six.

Seal of Clerk Dist. Court Ramsey County.

EDWARD G. ROGERS, Clerk,
By G. A. JOHNSON,
Dep. Clerk of Dist. Court,
Ramsey Co., Minn.

*Here state whether city property, improved or unimproved or improved farms or unimproved lands, and where situated.

!Here describe the nature of the property; whether bonds, stocks, merchandise, etc. 141

Certificate.

I, Patrick H. Kirwan, hereby certify that in my opinion the sureties to the above bond are sufficient, and I hereby approve the same.

PATRICK H. KIRWAN,
U. S. Surveyor General for Minnesota

1. The names of the U. S. Surveyor General, Deputy Surveyor, sureties, and witnesses must be written in full, and the residence of witnesses written after their signatures.

2. A full description of the surveys embraced in the contract must be written in the blank space left for that purpose.

3. The date when the surveys can be commenced shall not be earlier than the commencement of the fiscal year for
142 which the appropriation is made, except in cases where the appropriation is made immediately available.

4. The rates named in any contract must not exceed those fixed by law.

5. The signatures of the Surveyor General and of the Deputy Surveyor must each be witnessed by two persons.

6. All erasures must be dated the day it is signed by all the parties thereto, and its execution must be subsequent to the execution of the contract.

8. The names of all the parties executing the bond, and
143 of the witnesses thereto, must be written in full.

9. The affidavits of sureties must be made before some officer (preferably an officer of the United States) duly authorized to administer oaths and having a seal.

10. The sufficiency of sureties must be certified to by the U. S. Surveyor General.

11. The amount of the bond must be at least double the estimated amount that will be due to the Deputy Surveyor upon the completion of the contract made under the same.

144 12. The duplicate and triplicate contracts and bonds will be forwarded to the General Land Office, and when approved the Commissioner will forward the triplicate to the First Comptroller of the Treasury.

Contract and Bond. No. 73. Office of U. S. Surveyor General, St. Paul, Minnesota, Dec. 10, 1896. P. H. Kirwan, U. S. Surveyor General. Thomas H. Croswell, U. S. Deputy Surveyor. $400.00. Payable from the appropriation for the survey of public lands, act approved June 11, 1896. Approved December 18, 1896.

EXHIBIT "C."

W. A. L. Department of the Interior. E. M. R.
23—1047.

Washington, D. C., Oct. 29, 1896.

G. A. Burns, F. P. Duffy, Henry Weckey, P. J. Foley, Walter Douglas, William S. Douglas, Ephraim A. Trenholm, Petitioners.

vs.

151

Simon J. Murphy, Geo. C. Robinson, Elisha H. Flinn, Temple E. Dorr, The Security Land and Exploration Company, The Cloquet Lumber Company, The Duluth & Iron Range R. R. Co., et al., Defendants.

The Honorable Commissioner,

General Land Office.

Sir: This case involves a quantity of land estimated to contain about 1202 acres in sections 2, 3, 4, 9, 10, 11 of township 57 north, range 17 west of the 4th P. M., Duluth Land District, Minnesota,—on and around the margin of Cedar Island Lake, or Ely Lake. 152

The petitioners claim that they are, and have been for a long time, bona fide settlers upon different portions of the said land and ask that the same be surveyed and platted, in order that they may have entry under the homestead laws.

On the other hand, the defendants claim that, under patents issued, and the swamp land grants made, by the Government, they have become, by mesne conveyances, owners of the following fractional subdivisions, delineated on the map filed in your office, to-wit:

153

Lots 1, 2, 3, 4, 5, 6 of section 2 containing 147.1 acres.
Lots 1 and 2 sec. 3, containing 74.75 acres.
Lots 1, 3, 5, 6, 7, 8 sec. 4, containing 224.37 acres.
Lots 1, 2, 3, 4 sec. 9 containing 148.10 acres.
Lots 1, 2, 3, 4 sec. 10 containing 139.26 acres.
Lots 1, 2, 3, sec. 11 containing 125.8 acres,

aggregating 859.38 acres, in the township aforesaid, forming a cordon of contiguous subdivisions, exterior to the lake aforesaid, and extending from its margin or water line, from one mile to a quarter of a mile at points.

And they claim, as the patentees of the land above described 859.38 acres, that they are entitled to (to) the 1202 acres lying between said subdivisions and the lake.

Jan. 28, 1895, a decision was rendered in this case (20 L. D. 28) ordering a hearing to be had to determine the facts involved in the controversy; and, on April 8th, 1895, a motion for review of that decision was denied (20 L. D. 295.)

The hearing took place before the U. S. Surveyor General in Minnesota, in June, 1895. A number of witnesses were
154 examined, and the deposition of Simon J. Murphy was taken and considered.

On June 21st, 1895, the Surveyor General transmitted a report upon the record, in which he finds:

"I am of the opinion and report, that the land between Lake Ely, as it actually exists, and the meander line of Cedar Island Lake, as noted in the field notes of Deputy Howe, and as platted upon the Government map, was actually in existence, as high, rolling, and heavily timbered lands, of good agricultural character, at the time of the pretended survey of Deputy Howe, in 1876. And I have
155 the honor to recommend that a survey of said lands be directed, as prayed for, in the petition for this proceeding, for, in my opinion, said land was Government land, in existence at the time of the pretended survey, which has never been surveyed by the Government."

On Oct. 31, 1895, your office decision affirmed the recommendation of the Surveyor General, and directed him to enter into a contract for the survey of the land in controversy. From which action the defendants appealed.

It is clearly shown by the record, that no portion of the interior of this township has ever been surveyed by a Government Surveyor.

156 The report of Deputy Howe in 1876, was absolutely and unqualifiedly false, and the courses and distances therein given, did not represent an actual survey, and had no stronger foundation in fact than his imagination. Consequently, the meander line of Cedar Island Lake was never actually run, and the 1202 acres of land that now exist, did then exist, between the meander line as established by him and the true meander line of said lake, and was never a portion of Cedar Island Lake, but was high land, rolling and heavily covered by timber.

The department has had some difficulty in arriving at the correct conclusion on the question as presented.

The hearing in this case went to two points, whether the physical facts, as alleged in the petition, actually existed on the ground, and second, to establish the fraud in the original survey and meander of Cedar Island Lake, as executed by Deputy Howe.

The plat made in pursuance of the survey made by Deputy Howe in 1876, was accepted and approved by the Government as the official plat of this township. All of 157
the lands of this township between December, 1879, and March, 1887, has been patented. Prior to the issuance of such patents, to-wit: in 1879, complaints were made to your office as to the correctness of the survey as made, and on June 11th, 1879, despite such complaints, an investigation was denied, and the plat approved.

On Jan. 18, 1895 (20 L. D. 28), this department rendered a decision in this case, overruling your office decision of Oct. 6, 1893, in which it was held in reference to the decision in the cases of Mitchell vs. Smale (140 U. S. 371) and Hardin vs. Jordan (Id. 401) that

158

"the doctrine announced in these cases is not applicable to the one at bar, in that there is no case of riparian ownership here. There has been no recession of the waters of the lake, hence no accretions beyond the meander line. But it is insisted, that the land between the meander line and the shore line is not and never has been a lake bed. And by reason of the fraudulent survey, an area of about 1202 acres of land has been included in the lake, that is and was actually Government land and subject to homestead entry as such, at the time the official map is alleged to have been made. The ruling that attached accretions or relictions to the riparian title can not be applied in this case for the reason 159
that the meander lines were not run to and connected with the true shore line, and were so described as to leave a large area between these two points.

I am disposed to think this contention of counsel is sound. The showing here made is amply sufficient in my judgment to justify the belief that the survey made by Howe is a palpable fraud upon (upon) the Government; that there was no attempt to make the meander line conform to the shore

line; and that Government land does and did exist at the time the survey was made, reported and approved. Under these facts as they appear, I do not think the doctrine of Riparian Ownership is applicable to the question involved. * * *

While the exparte statements in themselves are not sufficient to warrant an order for a resurvey, yet they are deemed sufficient to require a hearing to determine whether the physical facts actually exist on the ground, and also to
160 establish the alleged fraud in the survey. This determination renders it unnecessary at this time to discuss any other questions suggested."

Motion for review of this decision having been filed in April 8, 1895, the Department denied the motion for review in which it was said (305 L. & R. 486) "Review of this decision is now asked by Murphy et al., who claim to own some of the abutting lots, and their contention is that the department is without jurisdiction in this matter, for the reason that the land has been patented. I deem it unnecessary to discuss this question at this time, at length, for the reason that all matters may be presented at the hearing, and
161 may be (fully) then fully considered in the light of all the facts."

It is only necessary to say that the Department does not seek to obtain jurisdiction over the patented lands. It is only those lands which it is alleged the Government was deprived of by the fraudulent survey, that can be affected by this hearing. The other question of riparian ownership, was for the purpose of the ordering of the hearing fully considered in the first instance under the showing made it was determined that this doctrine did not apply to the case at bar.

An opportunity, however, was, by the office, given to all
162 the parties to be heard, so that all the questions might be presented and considered in the final determination. It is unnecessary to argue at length as to whether this decision made the question of riparian proprietorship res judicata. The only questions submitted by the original decision for hearing was the question of facts as has been set up. The legal questions involved become res adjudicata by reason of the decision. Nor can it be said that anything contained in the decision on review changes this status, because the motion for review was denied. It is true that it was said that

"all questions might be presented and decided in the final determination." But clearly, what must have been meant, was all questions other than riparian proprietorship.

In other words, the questions of fact as to whether the survey was fraudulent, or as to the actual existence of this land between the meander line and the true shore line of the lake. It could not have been meant that the question of riparian ownership was left open, because in the very motion for review, it says:

"The other question of riparian proprietorship was, for 163
the purpose of ordering a hearing, fully considered, under the showing made, and it was determined that this doctrine did not apply to the case at bar."

The doctrine of res adjudicata is one considered by all judicial tribunals and the correctness or incorrectness of the ruling made in such a case will not be considered.

The decision of one executive officer is binding upon his successor, except upon grounds that would be sufficient for the ordering of a hearing (U. S. vs. Bank of Metropolis 15 Peters 377) Union Logging Company vs. Noble (147 U. S. 165) Stone vs. U. S. (2 Wall 525) Ex parte Michael Dermody 164
(11 L. D. 504).

The department will not therefore go into the discussion of riparian proprietorship. And it appears that counsel for defendants admit that the facts alleged as a basis for the original ordering of a hearing are in fact true.

The decision of your office appealed from is affirmed. Herewith I return the papers in the case.

Very respectfully

DAVID W. FRANCIS,
Secretary.

EXHIBIT "D." 165

Surveyor General's Office,
St. Paul, Minn., Dec. 10, 1896.

Thos. H. Croswell, Deputy Surveyor,
St. Paul, Minnesota.

Sir: In addition to printed instructions contained in Manual of Instructions to Surveyors General dated June 30, 1894, furnished you, the following special instructions

are issued for your guidance in the execution of surveys under your contract No. 73 of this date.

The execution of surveys specified in your contract will require:

1. The reestablishment of certain section, quarter section and meander corners on the north boundary of township No. 57, N., R. 17, W.

2. The temporary establishment of the corners of sec-
166 tions 1, 2, 11 and 12—sections 11, 12, 13 and 14—sections 10, 11, 14, and 15—sections 9, 10, 15, and 16—sections 8, 9, 16 and 17, and sections 4, 5, 8 and 9, and the quarter section corners between sections 9, 10 and (10 and) 11.

3. The establishment of permanent meander corners and the survey and permanent marking of the meander line of Cedar Island Lake as given in the original notes of Henry S. Howe, Deputy Surveyor, approved by the Surveyor General of Minnesota August 19, 1876, known and described as the "Old Meander Boundary," it being the boundary line between the patented land and the public land, to be surveyed as provided for under said contract.

167 4. The establishment of proper permanent meander corners at ordinary high water mark on the shore of Cedar Island Lake and the meandering of said shore line on the ground at ordinary high water mark.

5. The subdivision of all lands between the "Old Meander Boundary" and the ordinary high water mark of the lake.

You are directed in the first place to give early and earnest attention to the north boundary of the township, and if conditions not clearly provided for herein are found to exist, you are instructed to fully report the facts to this office for
168 further instructions.

The retracement of the North boundary will begin at the most easterly, fully identified, original corner west of Cedar Island Lake and proceed easterly. If the corner of sections 3, 4, 33 and 34 is found as represented on the diagram furnished you herewith some 20 chains north of the straight line joining the township corners, or its bearing trees not agreeing with original notes, and by measurement much too near the quarter corners between sections 33, and 34, or the corner of sections 33, 34, 27 and 28 of the township on

the north, such facts will indicate if not prove that said corner has been moved from its original position and may require its ~~obligation~~ and proper re-establishment in its original position. You will fully satisfy yourself in regard to proper identification and location of the section and meander corners west and east of the lake.

Several points are here given for your consideration:

First. The subdivision of the township having been found to be fictitious and consequently fraudulent, interior section corners are not to be restored to their original positions because they never had any existence as corners; they will be established according to the so-called original field notes. 169

Second. The "Old Meander Boundary," being fictitious and fraudulent, the tracts adjoining it partake of its character; therefore with the shape and size of lots outside of the "Old Meander Boundary," and preservation of their areas, this survey is not concerned; its purpose will be comprised and limited to the survey of land lying between the old boundary and the shore of Cedar Island Lake after said boundary has been properly established according to the original field notes. 170

Third. While the propriety of the restoration of interior section corners by measurement on meridional section lines is not questioned, it may be observed that inasmuch as all the notes are admitted to be fictitious they connot be depended upon in any one direction more than another; consequently section corners may be located on an east and west line and in this case with evident advantage. Measurements from the south boundary of the township will not be required.

You will, therefore, proceed to the eastern boundary of the Tp. and find or reestablish by proportionate measurements the corner of sections 7, 12, 13, and 18 on said boundary. Then run out the lines between sections 12 and 13, 11 and 14, 10 and 15, &c., according to the bearings and distances given in the original field notes and determine the most probable positions for the section corners to sections 11, 12, 13 and 14—sections 10, 11, 14 and 15—sections 9, 10, 15 and 16 and sections 8, 9, 16 and 17. Upon their proper location the position of other section corners and the greater part of the "Old Meander Boundary" will depend. 171

The attached memorandum for the adjustment and re-establishment of meander and boundary lines furnished by the Commissioner of the General Land Office is given for your instruction and guidance in determining the location of the several section and quarter section corners hereinbefore mentioned and the establishment of the "Old Meander Boundary." The method is given in detail, is clear and plain to be understood and must be carefully studied and closely followed.

172 You will be authorized to charge for the establishment of the "Old Meander Boundary" as follows:

When the survey of the said boundary requires you to pass over the lines three times the trial or random line will be run as usual without compensation; but a charge at the mileage rates specified in your contract may be made for the establishment and construction of the corners; again at the same rate for running out the true line, marking and blazing the same, and clearing out the underbrush; this amounts to a charge for twice the length of the line run at the specified rates when conditions justify such compensation.

173 The corners on said boundary on section lines will be constructed like regular "Meander Corners" and marked with the letters "O. M. B." (for Old Meander Boundary), on the side facing away from the lake; P. L. (for Public Land), on the side facing the lake; and proper section numbers on the other sides; for example, on the line between sections 10 and 11, the corner will be marked:

"O. M. B. on S.
~~P. L. on N.~~
S. 11 on E., and
S. 10 on W. faces."

174 (See "Meander Corners," par. 5, page 43 Manual of 1894; substitute in description "Old Meander Corner" on "Meander Corner.")

The stations along the "Old Meander Boundary" will be perpetuated by "post with bearing trees," corners, or a proper substitute, with dimensions conforming to quarter section corners (See Manual of 1894, page 40 and 41), and having the pits (if dug) on the boundary line. The posts will be set squarely on line as nearly as practicable and marked "O. M. B." on side facing away from the lake; P. L. on side facing lake; and on nearest side, when following

boundary in order of survey No. 1, No. 2, No. 3 in a separate and continuous series in each section; on the farthest side the appropriate section number.

Herewith you are furnished a diagram of the Northern part of Tp. 57, N. R. 17, W. showing the meander line of Cedar Island Lake as given in the field notes of Henry S. Howe, Deputy Surveyor, also the approximate location of the shore of said lake as it is reported to exist on the ground. The North boundary of the township shown by black line is according to notes returned by Deputy Howe. The red line drawn on the diagram indicates the irregularities reported to exist in the said line. 175

You are also furnished with the field notes of the meanders of Cedar Island Lake as given by Henry S. Howe, Deputy Surveyor; also the description of all corners of the Tp. lines and sections in the northern part of the Tp. as given in the field notes of the original survey.

Your surveys must be executed with a solar compass or transit working independently of the magnetic needle.

In order that accounts for high rates may be properly rendered your field notes must show the exact chainage at which you enter and leave land "heavily timbered, mountainous, or covered with dense undergrowth." 176

You will note all improvements of settlers on the land to be surveyed by you in the execution of your surveys and state the location and approximate value of their improvements.

P. H. KIRWAN,
Surveyor General.

MEMORANDA.

Adjustment and Re-establishment of Meander and Boundary Lines. 177

Surveying Division, December 3, 1896.

Meander and boundary lines, made up of two or more courses, may be established or re-established from the original field notes thereof, in the most probable original positions, as follows:

1. Write down the original bearings and distances in tabular form, then enter the difference of latitude and the departure of each course in the proper places. These rules

are formulated for running out the line in the order given in the notes.

2. On the ground first determine a true meridian; then beginning at the initial corner, carefully run out the meander or boundary line with the bearing and distances given in the original field notes, making at each change of direction temporary trial stations, so called. The station at the end of the last course, which will be extended to its full length regardless of the position of the objective corner, will
178 be the terminal station.

3. Next at the "terminal station" take the bearing and distances to the objective meander or boundary corner, as the case may be; this last will be the closing errors, which must not be confounded with the falling. The latter is the closing error reversed.

4. Enter the closing error in the table under the last course already tabulated, placing the distance under the bearing. Then add up the differences of latitude, departure, and the column of distances.

5. From each trial station run a line parallel to the
179 "closing errors" and in the same direction; make said line, called a correction offset equal to a part of the closing error proportioned to the distance of the trial station from the initial corner. At the point thus determined permanent corners will be established and properly witnessed and marked.

6. To correct the co-ordinates of the several courses distribute the difference of latitude and the departure of the "closing error," assigning to each co-ordinate a correction proporioned to the length of the course. Enter the corrected values in "Part 2" of the table immediately below
180 "Part 1."

7. Now by reference to the diagram and tables the closed survey made by the surveyor will be clearly understood. Beginning at the initial corner the survey follows the adjusted courses to the objective corner; thence with the "closing error" reversed, and the original course reversed and taken in inverse order back to the initial corner, the point of beginning.

8. Next write in "Part 2" the reversed courses referred to in the last clause of the preceding paragraph; then add

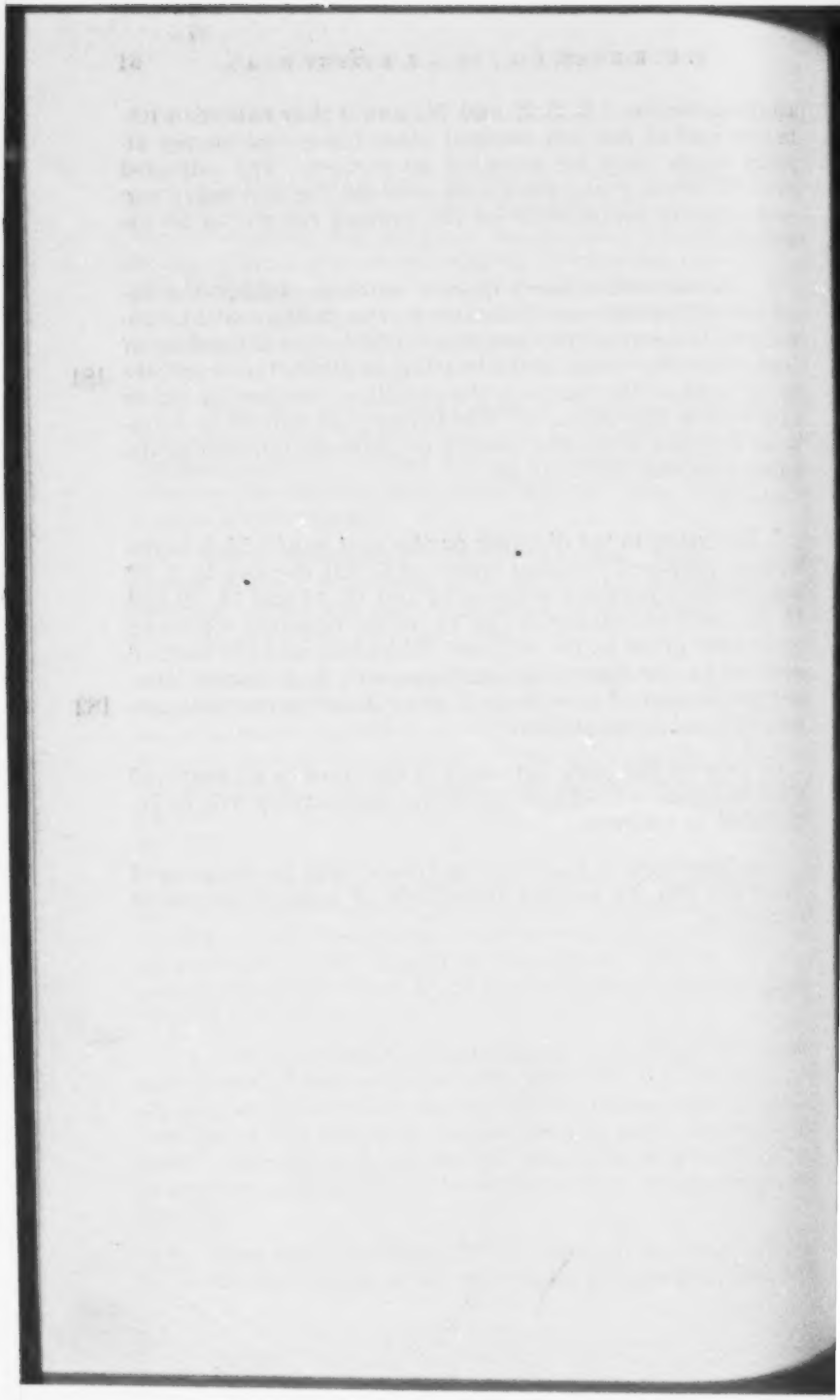
up the columns: N. S. E. and W., and if they balance within one unit of the last decimal place the closed survey already made may be accepted as correct. The adjusted courses (bearing and distances) between the successive corners already established on the ground remain to be determined.

9. To determine the adjusted courses: Divide the departure by the difference of latitude; the quotient will be the natural tangent of the bearing. Divide the difference of latitude by the cosine of the bearing, or divide the departure 181
by the sine of the bearing; the resulting quotient in either case will be the distance. The better plan will be to determine distance from the greater co-ordinate latitude or departure as the case may be.
Example.

Referring to the diagram on the next page which represents a supposed "closing error" of S. 52½ degrees E. 7. 32 chs., the line between sections 12 and 13, 11 and 14, 10 and 15, &c., will be run across the Tp. to the terminal corner on the course given in the original field notes and the method detailed in the foregoing directions will be followed literally to the end of paragraph 5, page 2, but permanent cor- 182
ners will not be established.

In view of the close approach of the lines to an east and west direction a modification of the instructions will be introduced as follows:

The departure of the "closing errors" will be distributed along the line by placing two-thirds of same at corner of sections 8,

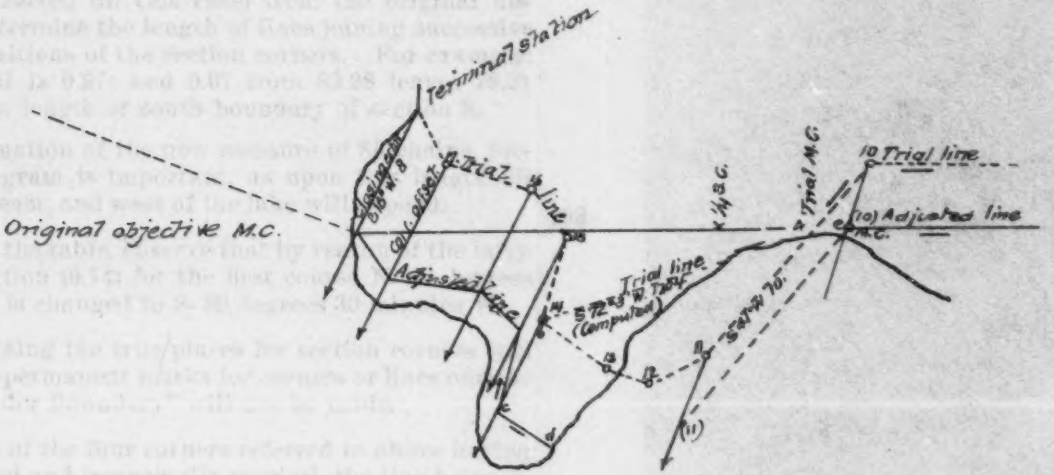


193

FOLD OUT IS TOO LARGE TO BE FILMED

194

195



Original Courses			Difference Latitude		Departure	
No	Bearing	Dist.	N.	S.	E.	W.
11	S 41° W.	10		7.55		6.56
12	S 66½° W.	3.60		1.43		3.30
13	N 75° W.	2.50	0.65			2.41
14	N 52° W.	5.00	3.08			3.94
			3.73	8.98		16.21
				3.73		
				5.25 S.		

dep or 1.621 log. 12.098 1.2098
diff lat. 5.25 log. 0.7202 0.7202
72°3' log tan. 0.4896 Cos 9.4888 Sin. 9.9783
Dist. 17.04 log. 1.2314 1.2315

"a" — "b" course S 72°3' W. 17.04 chains.

9, 16 and 17; one-half at corners of sections 9, 10 15 and 16, and so on easterly. The difference between the successive eastings substracted (in this case) from the original distances, will determine the length of lines joining successive established positions of the section corners. For example: 3.88 minus 2.91 is 0.97; and 0.97 from 80.28 leaves 79.31 chains, the new length of south boundary of section 9.

The determination of the new measure of 80 chains, proportion on diagram is important, as upon this length all corners south, east, and west of the lake will depend. 193

Referring to the table, observe that by reason of the large latitude correction (0.74) for the first course N. 89 degrees 49 minutes W. is changed to S. 89 degrees 30 minutes W.

The lines joining the true places for section corners will not be run and permanent marks for corners or lines outside the "Old Meander Boundary" will not be made.

The position of the four corners referred to above having been determined and temporarily marked, the line between section 11 and 12 will be run north a distance equal to the new measure for 80 chains already found and a temporary section corner set. The quarter section corners will not be 194 required.

From the section last mentioned run west and at distance given by original notes proportioned as stated above, set corner on "Old Meander Boundary;" continue to lake and at high water mark, set meander corner as required by Manual of 1894.

From the corner of sections 1, 2, 11, and 12, run northwesterly by original notes and correct back; set the quarter section corner at 40 chains by proportionate measurement, but independent of the length of 80 chains already determined. 195

In a similar manner establish meander corner at all section lines intersecting the "Old Meander Boundary" south and west of the lake; and on the lake shore, at ordinary high water mark, establish regular meander corners. All measurements of this work will be made proportionate to the new measure of 80 chains as herein described.

The west boundary of section 4 will be surveyed by the method employed on the east boundary of section 2.

The line between sections 3 and 4 will be run on the course given in the original notes and the corner at intersection with "Old Meander Boundary" will be placed at 26.10 chains by proportionate measurement from the corner of section 3, 4, 33, and 34 on the north boundary. In case the conditions are found to be as represented on the diagram with letter of Nov. 7, 1895, the 26.10 chains will be increased to over 30 chains actual measurement.

Establishment of the Old Meander Boundary.

196 The following diagram and table, with the foregoing rules, paragraph- 1 to 9 inclusive, will guide the deputy in the execution of the work without further instruction.

Continuation of Memorandum.

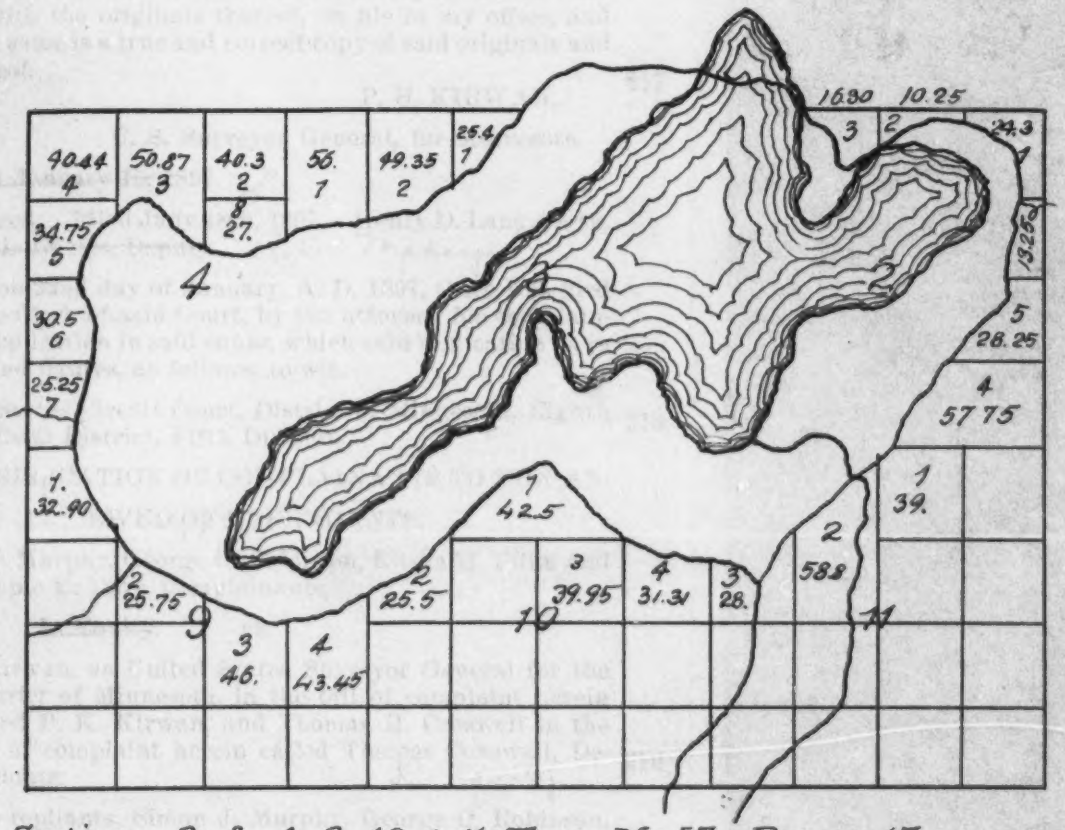
"10. The permanent corners having been established and marked (see paragraph 5), and the adjusted courses correctly computed (paragraph 9), the surveyor will begin at the initial corner and run out said adjusted courses between the successive permanent corners already established, and properly blaze and mark the line."

Conditions may exist in section 2, which, without additional instructions, may give the deputy some trouble.

205 Suppose for example that the trial line on the 11th course passes into the lake. The deputy will run as far as he can, here supposed to be 5 chains, to the shore on said course. Then take the remainder of the course S. 41 degrees W. 10 chains and a sufficient number of the following courses to reach a point "b" which can be attained on a straight line from "a." Take out the latitude and departure for such courses and compute the bearing and length of "a b." This line will be substituted for the tabulated courses (see table), and will be used as part of the original field notes, and positions of adjusted corners will be determined as already directed.

206 Should the adjusted position of "10" fall short of the shore, run as much of the adjusted course (10) to (11) as possible and set a regular meander corner at "e," In case a fractional course, 13 to 14, results further on, run said adjusted course by reversed bearing from "e" to "d," and at the latter point establish a regular meander corner.

Exhibit B



Sections 2. 3. 4. 9 10 & 11 Town No. 57. Range 17.
St Louis County, Minnesota.

Exhibit B

Department of the Interior, General Land Office,

Office of U. S. Surveyor General,

St. Paul, Minn., January 4, 1897.

I, hereby certify that the foregoing and attached, special instructions for executions of the survey under contract No. 73, with the hereunto attached memoranda, have been compared with the originals thereof, on file in my office, and that the same is a true and correct copy of said originals and all thereof. 217

P. H. KIRWAN,

U. S. Surveyor General, for Minnesota.

~~Dated January 15, 1897.~~

Indorsed: Filed Jany ~~18th~~, 1897. Henry D. Lang, Clerk. By ~~L. Davies, Deputy~~. R. C. Mabey

That on 22nd day of January, A. D. 1897, there was filed with the Clerk of said Court, by the attorney for complainants a replication in said cause, which said replication is, in words and figures, as follows, to-wit:

United States Circuit Court, District of Minnesota, Eighth Judicial District, Fifth Division. 218

THE REPLICATION OF COMPLAINANTS TO THE ANSWED OF DEFENDANTS.

Simon J. Murphy, George O. Robinson, Elisha H. Flinn and Temple E. Dorr, Complainants,

~~In Equity~~. vs.

P. H. Kirwan, as United States Surveyor General for the District of Minnesota, in the bill of complaint herein called P. K. Kirwan, and Thomas H. Croswell in the bill of complaint herein called Thomas Coaswell, Defendants. In Equity 219

These repliants, Simon J. Murphy, George O. Robinson, Elisha H. Flinn, Temple E. Dorr, saving and reserving to themselves all and all manner of advantage of exception which may be had and taken to the manifold errors, uncertainties and insufficiencies of the answer of the said defendants for replication thereunto, saith that they do and will aver, maintain and prove their said bill to be true, certain and sufficient in the law to be answered unto by the

said defendants, and that the answer of said defendants is very uncertain, evasive, and insufficient in law, to be replied unto by these repliants; without this, that any other matter or thing in the said answer contained, material or effectual in the law to be replied unto, confessed or avoided, traversed or denied, is true; all which matters and things these repliants are ready to aver, maintain and prove as this Honorable Court shall direct, and humbly pray as in and by their said bill they have already prayed.

220 Dated January 22d, 1897.

M. H. M. STANFORD,
Solicitor for Complainants.

Indorsed: Filed Jany. 22nd, 1897. Henry D. Lang, Clerk.

By L. Davies, Deputy.

United States of America.

United States Circuit Court, District of Minnesota, Eighth Judicial District, Fifth Division.

NOTICE OF MOTION.

221 Simon J. Murphy, George O. Robinson, Elisha H. Flinn and Temple D. Dorr, Complainants,

~~In Equity.~~ vs.

P. K. Kiwan, as United States Surveyor General for the District of Minnesota, and Thomas Caswell, Defendants. In Equity

To P. K. Kirwan, United States Surveyor General for the State of Minnesota, and Thomas Caswell:

Please take notice that the above entitled complainants will move said Court at the Chambers of the in the Federal Building in the City of
222 Minneapolis in said district on Thursday the seventh day of January, A. D. 1897, at ten o'clock in the forenoon on (on) said day, or as soon thereafter as counsel can be heard that a temporary injunction issue restraining you, the said defendant, P. K. Kirwan, as Surveyor General or otherwise, during the pendency of the above entitled action and until the final determination thereof from entering into any contract, or perfecting a contract partially entered into for a survey of the lands hereinafter described, or any part of parcel thereof, or from surveying the same yourself,

or causing the same to be surveyed in any manner, and restraining you, the said Thomas Caswell, defendant, from surveying said land or any part thereof, or causing the same to be surveyed. Said lands are situated in the County of St. Louis, State of Minnesota, and described as follows, to-wit:

Sections one (1), two (2), three (3), four (4), five (5), eight (8), nine (9), ten (10), eleven (11), twelve (12), thirteen (13), fourteen (14), fifteen (15) and sixteen (16), township fifty-seven (57), north of range seventeen (17) west, restraining 223
yourself, your agents, attorneys or servants from making such survey.

That said motion will be based on the order to show cause and the affidavit of M. H. Standford and Merritt S. Cook, and the bill of complaint in this action, copies of which are hereunto attached and upon the records and files in this action.

That the grounds of this motion are particularly set forth in said affidavit and the said bill of complaint, which are hereby referred to and made part of this notice.

Dated 21 day of Dec., 1896. 224

M. H. STANFORD,
Solicitor for Complainants.
600-601 Torrey bldg., Duluth, Minn.

United States of America.

United States District Court, District of Minnesota, Eighth Judicial District, Fifth Division. In Equity

Simon J. Murphy, George O. Robinson, Elisha H. Flinn and Temple E. Dorr, Complainants,

~~In Equity~~. vs.

P. H. Kirwan, as United States Surveyor General for the 225
District of Minnesota, and Thomas Caswell, Defendants.

State of Minnesota,
County of St. Louis—ss.

Mortimer H. Standford being duly sworn, deposes and says that he is the solicitor for the above named complainants and is familiar with and has knowledge of the facts contained in the bill of complaint in this action; that said complainants are all residents of the State of Michigan, said

Dorr residing in the City of Saginaw and the remainder thereof residing in the City of Detroit in said State of Michigan, and all of said complainants are now absent from the State of Minnesota. That deponent fears that said P. K. Kirwan, Surveyor General, will let a contract or perfect the same if already let, for the survey of the lands described in the bill of complaint herein, and that the said defendant Caswell will perfect a contract for such survey with said surveyor General, if the same is not already perfected, and proceed to survey said lands, and that said complainants will
226 thereby be irreparably injured, as set out in the bill of complaint herein, before a motion can be made or heard in this action, unless restrained by the temporary order of this Court, and he also fears that said complainants may be so irreparably injured by the letting or perfecting of such contract and by such survey, should he be obliged to send the bill of complaint and other papers in this action to the State of Michigan to be verified by said complainant or one of them.

Deponent further says, that annexed hereto and made a part thereof, is a true copy of the deposition of Simon J. Murphy, one of the said complainants and of the whole there-
227 of, taken on interrogatories and cross interrogatories and used as evidence before the Surveyor General of the United States for Minnesota, in a proceeding before said Surveyor General, on a petition for a re-survey of said lands during the month of July, 1895, and that the same is now of record in the office of said Surveyor General or of the Interior Department of the United States.

That annexed hereto and made a part hereof is also the true copy of the deposition of Elisha H. Flinn and of the whole thereof one of said complainants, taken before said Surveyor General at said hearing and that the same was corrected, read and signed by said Flinn in the presence of
228 deponent and said Surveyor General and other parties interested, and is now of record in like manner as the testimony of said Murphy.

M. H. STANFORD,

Sworn and subscribed to before me this 21st day of Dec., A. D. 1896.

(Notarial Seal)

OSCAR MITCHELL,
Notary Public for ~~St. Louis Co.~~ Minnesota

United States of America.

United States Circuit Court, District of Minnesota, Eighth Judicial District, Fifth Division.

Simon J. Murphy, George O. Robinson, Elisha H. Flinn, and Temple E. Dorr, Complainants,

~~In Equity~~. vs.

P. K. Kirwan as United States Surveyor General for the District of Minnesota, and Thomas Coaswell, Defendants. In Equity 229

State of Minnesota,
County of St. Louis—ss.

Merritt S. Cook, being first duly sworn deposes and says that he is a resident of Duluth and a citizen of said county; that he is Deputy United States Surveyor and has been such for three years last (passed), and by profession a civil engineer and land surveyor and has followed said profession for thirty years last (passed). That he is familiar with government surveys and the subdivisions of lands; that he has had a large experience in fixing riparian boundaries in case of original defective surveys and in establishing corners 230
where, by the original survey, no corners could be found, and in case of defective surveys and defective field notes. That he has had large experience in fixing disputed lines in case of riparian boundaries. That he is familiar with the lands lying around Cedar Island Lake in township fifty-seven (57), north range seventeen (17) west, St. Louis County, Minnesota, and with the two northern (tiers) of sections of said lands mentioned in said township. That he has examined (that he has examined) carefully the original field notes of all other surveys made in the northern part of said township and the land bordering on the waters of Cedar Island Lake. That he has located the following corners in said township northeast corner of section sixteen 231
(16) northeast corner of section eight (8), and the north quarter post of section sixteen. That said corners are the important corners for the location of said Cedar Island Lake and of the meandered line as shown by the original field notes of the government survey. That Exhibit "D" annexed to the original bill of complaint in this action was made by deponent from the location of the corners as aforesaid, and from an examination of the field notes of the original government survey, from actual measurements by de-

ponent in making survey for county road in said township and from the testimony of civil engineer F. L. Dever who was sworn as a witness on the hearing before the Surveyor General during the summer of 1895, at Duluth, Minnesota, in a proceeding for an order to re-survey the lands about said Cedar Island Lake. That in said testimony the civil engineer swore that in establishing northeast corner of section sixteen in said township he measured one mile for each section going from south to north. That deponent also made such plat correspond with the corners located
232 by the county surveyor W. B. Patton, according to the field notes of the original survey and the meander line. That he surveyed all the important points necessary to locate all that portion of Cedar Island Lake lying in section nine (9) and ten (10) on said Exhibit "D" by triangulation and also located that part of St. Mary's Lake lying on said section nine (9) in connection with the county road survey.

Deponent further says that in his judgment based on actual experience in the field and elsewhere the cost of making a re-survey of any portion of said township about Cedar Island Lake will be very large and that such re-survey to be
233 of any value must be attached to the outside monuments of said township and surrounding monuments to be established. For that purpose a line must be run around the entire township and eight interior corners in said township must be established. To do this six subdivision lines across the town must be run. This would be an addition of sixty miles of straight work without including the offsets or the necessary work in order to attach the lines to establish corners.

Deponent further says that there are no interior corners established by the government in said township except that of northwest corner of section thirty-six, that the original
234 field notes of the meander line of said lake being about seven and one-half miles long must be run twice, first, the random line, second, the true course in order to correspond with the fixed monuments varying in course from one section to another from two to twelve degrees. This would take seventeen miles of line. The actual lake must be run which would be about six miles additional and in addition thereto tying each to the adjacent corners. It would also be necessary to run in order to establish monuments on the lake at least three section lines after the corners are

once established making in all about one hundred miles of careful survey.

Deponent further says, that the original methods of government survey would be of no use or benefit to any one for locating the property about the lake; even a survey with a soler compass would not be sufficiently accurate. That a clear transit line through the heavy timber and measurements taken with steel tape and plumb-bobs must be made throughout the entire one hundred miles of lines. Even measurements and random air lines across the town do not 235
furnish a basis for proportional measurements, inasmuch as the corners themselves must be located by measurements on section lines which necessarily have to be measured and computed in accordance with law. That in order to make a survey which would be of any value a large amount of valuable timber about Cedar Island Lake and in other portions of the town must necessarily be cut down in running lines.

To survey these lines one hundred miles in length a line must be cut to a necessary average width of four feet. (Thus) would equal an area of fifty acres of land, then estimating even as low as.....feet of good timber per acre would amount to..... feet of valuable timber necessarily de- 236
stroyed.

General Observations.

Granting the technical right of the government to the territory between the water lots, as shown on the government township plat, and the actual water line, the title would be perfectly valueless unless its boundaries can be defined. So that the whole question resolves itself into the practicability or possibility of locating the meander line. A mere survey of the same according to the meander notes of original survey would be no nearer the true location than a map of the same made on an ordinary square plat. Again, if the interior corners of the township were, or had been lo- 237
cated, as represented on the field notes, the difficulty in the case would be very much less, as the work would be done for about one-third of the probable cost that is now necessary. Regarding the fraudulent survey of the town it is well to remember that its nature should have been ascertained previous to filing the township plat and if the government chooses to take advantage of its own errors as to this particular lake would it reimburse the value of the multitude of large lakes known to exist in the township which were

not shown on original plat, but were sold as land. And even for the lake in question how could it make a new plat showing for instances lot two section thirty-five township fifty-eight (58) north range seventeen (17) west as having about six acres instead of the area shown on township plat or lot two section nine southwest corner of lake as having less land than was named in the patent. Again it would be well to note that Mr. Howe in his pretended survey of Cedar Island Lake did with one exception what has been customary in all such cases at least for all interior
238 lakes, to-wit, merely to establish meander posts (which unhappily he failed to do), then take a course right and left so as to give a general idea of the shape of the lake, then make meander notes of the same in the office. So that in nine cases out of ten or nine hundred and ninety-nine in a thousand (perhaps nearer the truth) the actual line is never run on the shore of the lake, and the meander line itself in a majority of cases becomes a mere technicality, sometimes a thousand feet from the shore inland or in the water as the haphazard notes indicate, but as a general rule the notes will prove by closing on the meander corners.

On account of the great irregularity of the north line of
239 the township the north tier of sections are proportionately out of shape and in order to survey the given meander line even after the adjacent corners have been established each section would require a different meridian and a new proportionate variation in length of various courses.

That deponent is familiar with the various surveys in the township and those made after the original government survey were as follows: Soon after the township plat was filed various parties, among the rest the Nelson Lumber Company made partial surveys and explorations presumably in search of pine timber. The corner A B C on accompanying map representing such corners but no official sur-
240 vey of the township was ever attempted until the winter of '93 and '94 when the county commissioners in response to a petition signed by various parties representing mining interests on sections five and six representing that no interior corners were to be found, that they were unable to resurvey the whole township in order to establish the corners required for their sections ordered the county surveyor William B. Patton to make such survey in accordance with law. Accordingly, such work as necessary for the purpose named was done but only two interior section corners were estab-

lished. The notes of such survey including notes of the four lines surrounding the township and three interior random lines were turned over to the present county surveyor F. Davis who i nresponse to wishes of some settlers on disputed territory northwesterly from said Cedar Island Lake made a survey and partial sub-division of section four and north half of section nine, as shown on within map. In addition to making the official county survey Mr. Patton made a careful subdivision of sections five and six and established interior monuments for the same and at least one village (Fayal) has been laid out in accordance with such 241
survey.

At present there are at least three monuments about forty or fifty rods from each other each purporting to be the correct location for the corner 4 5 8 and 9. If a new set of corners were to be established as a necessary result of the proposed resurvey of the lake it would cause further confusion in monuments and boundaries and the establishment of other corners unless accompanied by the very best evidence as to accuracy and legality and especially if not done by a method superior in accuracy to that adopted in the Patton survey would have little effect as to settlement of boundaries and would necessarily cause much confusion 242
and expensive litigation. If the deputy surveyor should be allowed to use the county surveyor's notes for outside lines of the township founding his work on the same so much work might be saved.

Yet we would have the anomalous condition presented of making an official survey authorized by the United States Government made to conform to that of another surveyor made in accordance with state law although authorized by the county.

Expense of Re-survey.

243

The expense of re-survey of the town and lake would be at least six times what any surveyor could afford to subdivide an ordinary township for according to usual method adopted.

The total expense of an accurate survey which would be conclusive as to legality could not be in my opinion (be) less than three thousand dollars ($3,000).

Patton's survey for the county, forty-two miles of line was

paid, I am informed, one thousand for his work exclusive of expense of subdividing sections five and six.

MERRITT S. COOK,
Dep. U. S. Surveyor.

Sworn and subscribed to before me this 19th day of Dec., 1896.

(Notarial Seal) M. H. STANFORD,
Notary Public, for St. Louis County, Minn.

244 Deposition of Elisha H. Flinn.

E. H. Flinn being first duly sworn testifies as follows:

A. Where do you reside? A. In Detroit, Mich.

Q. How long have you lived there? A. Thirty years.

Q. State if you were one of the owners of the land which is in controversy?

Objected to as calling for a conclusion, and as incompetent.

A. Yes, sir.

Q. What knowledge have you of land about Ely Lake in township 57-17 in this county, Mr. Flinn? A. I have no
245 personal knowledge, never was in the township until day before yesterday, was in section 5.

Q. State what you had to do, if anything, with negotiations of purchasing this land for S. J. Murphy of Detroit? A. I attended the details of the purchase.

Q. State what was the basis of such purchase?

A. We purchased those lands. You want me to give the different purchases for different individuals? We purchased those lands for the pine timber and also for the lake frontage, we having a large amount of timber just north in township (fifty) 58-17, and at that time considered that as the only outlet for the timber. The purchase of the land in section 11, 57-17, was largely for the outlet, as we sup-
246 posed of the lake. Also the timber on land in the western part of the lake in 9 was purchased to control that portion in case we should dam the lake as a reservoir. We had no knowledge whatever of any fraud or anything of that kind in connection with this survey.

Q. How about what you supposed to be the outlet of the lake? A. Supposed it was on section 11.

Q. You secured that to control the outlet? A. Largely for that purpose, there was some timber on it too.

Q. Wouldn't have bought it except for that? A. No,

Q. How about that in section 9 covered by the waters of St. Marie's Lake? A. This is the first I knew of it when I saw the plat here, that our land on section 9 was mostly under the waters of St. Marie's Lake.

Q. Supposed all that time it was timber land? A. Yes.

Mr. Van Derlip:

Q. The government plat that you speak of Exhibit "A" is a certified copy, isn't it? A. It looks just exactly like it.

(Signed) ELISHA H. FLINN.

(Q.) Counsel for petitioners moves to strike out the entire testimony of this witness as incompetent and irrelevant, and having nothing to do with the two questions submitted to the Surveyor General for his determination. 247

Mr. Van Derlip: We offer in evidence the certified copy of the field notes of the survey of the interior and subdivision lines of township 57 N. of range 17 west of the 4th P. M. St. Louis County, Minn., survey of Henry S. Howe, deputy surveyor under his contract of April 26, 1876.

State of Minnesota.

In the matter of the petition of G. A. Burns et al. for the resurvey of sections 2, 3, 4, 9, 10, 11 in township 57, N. R. 17 W, 4th Principal Meridian of Minnesota. 248

Before the United States Surveyor General, at the St. Louis Hotel, in the City of Duluth, Minnesota, on the 11th day of June, A. D. 1895.

Interrogations to be propounded to Simon J. Murphy of Detroit, Michigan, on the following interrogations:

First Interrogatory: What is your name, age and occupation and where do you reside?

2nd Interrogatory: State what interest you have, if any, in any portion of the following described lands, situated in St. Louis County, State of Minnesota, viz.: Sections 2, 3, 4, 9, 10 and 11, township 57 N. R. 17 W. 4th principal meridian of Minnesota, and state the particular description thereof in which you have or claim an interest, if any. 249

3rd Interrogatory: If you state you have, or claim to have an interest in such lands, state when, and of whom, you purchased same, and the land and interest originally purchased by you, and where you resided at the time you made such purchase.

4th Interrogatory: If you say in answer to preceding interrogatories that you purchased any portion of such land, state what you supposed to be the true boundaries of such piece of land so purchased by you, at the time you made such purchase.

5th Interrogatory: At the time you made such purchase what evidence of the boundaries of each of such descriptions so purchased by you, did you examine?

6th Interrogatory: What did you rely upon (at) the evidence of the true boundaries of such land at the time you
250 made such purchase?

7th Interrogatory: What was the basis of the purchase price of each piece of said land so purchased and paid for by you?

8th Interrogatory: When did you first hear of an alleged fraud in connection with the original government survey of this land?

9th Interrogatory: Before or at the time you closed the purchase of said land, had you heard of any fraud or rumors of fraud connected with the original government survey of said land?

The following are answers under oath of Simon J. Murphy
251 to the interrogatories hereunto annexed:

1. A. Simon J. Murphy. Aged eighty years. Occupation has always been that of a lumberman. Reside at Detroit, Michigan.

2. A. I own an undivided one-half interest in lots 1, 2, 3, of section 2; lots 1, 2, of section 3; lots 1, 8, of section 4; lots 1, 2, 3, 4 in section 9; lots 1, 2, 3, 4 of section 10; lot 3 of section 11; town 57 north, range 17 west; lot 2 of section 35; and lot 1, 2 of section 34; town 58 north, range 17 west, St. Louis County in the State of Minnesota.

3. A. On or about the 11th day of April, 1883, I purchased the entire title from Philip M. and Edmond D. Graff
252 and Daniel E. Little to lots 2, 3, 4 of section 1; lots 1, 2 of section 3; lots 1, 8 of section 4; lot 4 of section 9; lots 1, 2 of section 10, in town 57 north, range 17 west, together with lot 1 of section 34, and lot 2 of section 35, town 58 north, range 17 west. This purchase from Graff and Little included about 4,000 acres tributary to Ely Lake in towns 57 and 58 north, range 17 west.

4. A. On or about February 16th, 1884, I purchased of Morris Thomas of Duluth, Minnesota, lots 1, 2, 3 of section 2, besides 80 acres on section 9 in same town. On or about

1884 of the Nelson Lumber Company of Cloquet, Minnesota, lots 3, 4, of section 10; lot 3 and NW ¼ of SW ¼ of section 11; town 57 north, range 17 west, and lot 2 of section 34, town 58 north, (range) 17 west, besides about six hundred acres in sections 13, 14 and 34, town 58 north, range 17 west. On the 5th day of April, 1883, I purchased of Scot Griswold or Kent County, Michigan, lots 1, 2, 3 of section 9, and one hundred and sixty acres in sections 8 and 9, town 57 north range 17 west, in same county. I also purchased about that time and since then other considerable tracts of pine timber in other parts of St. Louis County and Minnesota, for the us- 253
ual purpose of lumbering.

I purchased these lands for their pine timber, and originally took the title in my own name, intending to lumber the timber in the two towns above described, into Ely Lake, in the usual manner of lumbering by water. At that time there were no railroads contemplated in that locality, and I bought the lands around Ely Lake to facilitate the lumbering operations of this surrounding tract of pine timber, in the usual course of business, without any knowledge of any special excess in any of the descriptions. Since the time of this purchase I have deeded an undivided one-sixth interest in and to these lands to George O. Robinson, of Detroit, 254
Mich., and an undivided one-sixth interest to Temple E. Dorr, of Saginaw, Mich., a former partner of mine in the lumber business, and have contracted to sell an undivided one-sixth interest to Elisha H. Flinn of Detroit, Mich. At that time I resided at the City of Detroit, Mich., where I have resided for the last twenty-five years.

5. A. When I purchased these lands around Ely Lake I relied upon the plats and government descriptions that they were bounded by the lake. I bought and paid for the timber, which was estimated up to the lake shore, at the rate of about $1.65 per thousand feet at that time, which estimate included all of the timber up to the shore of the lake. The patents to all of the above described lands have 255
been duly issued and delivered and are now in my possession, and my chain of title from the government I consider complete.

6. A. I took the report and examination of my woodsmen, relying on the government plat that the lands were bounded by the lake. I made no examination of the lands personally.

7. A. Upon the government descriptions and boundaries and upon the plats which I examined.

8. A. The object and basis of said purchase of the lands bordering on Ely Lake was their value for the timber which stood upon them and the riparian rights which said lands bordering on Ely Lake possessed for the purpose of flooding said lake for a reservoir and holding ground in case of fire, and banking ground for the lumbering of said timber. At that time no railroads had been contemplated in that locality, and I expected that this timber would be brought out through the streams and I relied upon this lake with which to lumber all this timber in that vicinity, comprising
256 in all about 5,600 acres and containing an estimate of upwards of 60 million feet of pine timber.

9. A. Do not know that I have ever heard that there was any fraud, I have heard indirectly, long after I had made the purchase, that the survey of the lake was not very complete, but to what extent have never known. I heard such rumor about them years ago.

10. A. No.

11. A. Nothing.

(Signed) SIMON J. MURPHY.

Before the United States Surveyor General, at the St.
257 Louis Hotel, in the City of Duluth, Minnesota, on the 11th day of June, A. D. 1895.

In the matter of the petition of G. A. Burns et al. for the survey of sections 2, 3, 4, 9, 10, 11 in township 57, N. R 17 W. 4th Principal Meridian of Minnesota.

Cross-Interrogatories to be propounded to Simon J. Murphy, of Detroit, Mich.

1st Cross-Interrogatory: Did you know the quantity of land in each government lot or subdivision purchased by you as shown by the government survey; if you answer yes, state what was the area of each tract of land bought by you
258 in sections 2, 3, 4, 9, 10 and 11 in township 57 north of range 17 west in St. Louis county, Minn.

2nd Cross-Interrogatory: Where were you at the time of the purchase of said land; and, if you answer that you were not upon the land itself, state who negotiated the purchase in your own behalf?

3rd Cross-Interrogatory: Did the person or persons who purchased said land for you acqiure any interest therein in their own behalf?

4th Cross-Interrogatory: Has any of the persons who

negotiated the purchase of the interest in any part of said lands now claimed by you, any interest in any part thereof; if you answer yes, state what that interest is, and when, and from whom, and how acquired.

5th Cross-Interrogatory: State fully the interest of each person in said land beside yourself, and how, when, and from whom the interest of each was acquired.

JOHN R. VAN DERLIP,
Attorney for Petitioners.

259

The following are the answers made under oath by Simon J. Murphy to the cross-interrogatories hereunto annexed:

1st. A. No, execept as shown by the government plat, the purchase being largely for the lake frontage for lumbering purposes, and on the basis of a rate per stumpage for all the timber clear to the water's edge of Lake Ely.

2nd. A. At Detroit, my home. Robinson & Flinn of Detroit were associated with me in the negotiations of upwards of 125 million feet of lumber.

3rd. A. Mr. Robinson and Mr. Flinn acquired each an undivided one-sixth interest by contract at the time of purchase, to be deeded to them on full payment by each of a 260
one-sixth cost of said timber, with interest. About 1889, I gave Mr. Robinson a deed to his one-sixth interest upon his full payment for the same; Mr. Flinn still holding his contract interest for the same. Also, about 1890, I deeded Mr. Dorr of Saginaw, a partner of mine in the lumber business, a one-sixth interest upon his making the full payment for the same with interest.

4th. A. Answered in number 3. No other person has any interest in the title to said lands.

5th. A. Answered in number 3.

(Signed) SIMON J. MURPHY.

261

United States of America.

United States Circuit Court, District of Minnesota, Eighth Judicial District, Fifth Division.

ORDER TO SHOW CAUSE AND RESTRAINING ORDER.

Simon J. Murphy, George O. Robinson, Elisha H. Flinn, and Temple E. Dorr, Complainants,

~~In Equity~~. vs.

262 P. K. Kirwan as United States Surveyor General for the District of Minnesota, and Thomas Coaswell, Defendants. In Equity

To P. K. Kirwan, United States Surveyor General for the State of Minnesota, and Thomas Coaswell:

You are hereby ordered to show cause before this Court at the chambers of the judge in the Federal Building in the City of Minneapolis in said District on Thursday the seventh day of January, A. D. 1897, at ten o'clock in the forenoon on said day or as soon thereafter as counsel can be heard, why the temporary injunction of this court shall not issue restraining you, your agents, servants and attorneys
263 during the pendency of the above entitled action from entering into any contract, or perfecting a contract partially entered into for a survey of the lands hereinafter described, or any part thereof, or from surveying the same yourself, or causing the same to be surveyed in any manner. Said lands are situated in the county of St. Louis, State of Minnesota, and described as follows, to-wit:

Sections one (1), two (2), three (3), four (4), five (5), eight (8), nine (9), ten (10), eleven (11), twelve (12), thirteen (13), fourteen (14), fifteen (15), and sixteen (16), township fifty-seven (57) north of range seventeen (17) west.

You are also ordered and restrained until the further or-
264 der of this Court from in any manner entering into a contract, or perfecting a contract partially entered into for the survey of the above described lands or any part thereof and from surveying the same or any part thereof.

Let this order together with all the papers hereto attached be served on said defendant forthwith by delivering to him true copies thereof, and exhibiting to him this original order.

Dated 21st day of December, 1896.

WM. LOCHREN, Judge.

United States of America,
District of Minnesota—ss.

I hereby certify and return that I served the annexed notice of motion, affidavits and order to show cause, etc., on the therein named defendant Thomas Coaswell whose true name is Thomas H. Croswell by handing to and leaving true and correct copies thereof with him and by exhibiting to said defendant the signature of the Court to said original order to show cause, etc. personally at 4 mi E. Eveleth in said District on the 23rd day of December, A. D. 1896. 265

R. T. O'CONNOR, U. S. Marshal.
By T. J. SHEEHAN, Deputy.

Fees, $28.66.

United States of America,
District of Minnesota—ss.

I hereby certify and return that I served the annexed notice of motion, affidavits and order to show cause, etc., on the herein named defendant P. K. Kirwan, as United States Surveyor General for the District of Minnesota, by handing to and leaving true and correct copies thereof with him, and by exhibiting to said defendant the signature of 266 the Court to said original order to show cause etc. personally at Saint Paul in said District on the 22nd day of December, A. D. 1896.

R. T. O'CONNOR, U. S. Marshal.
By J. M. REDDING, Deputy.

Indorsed: Filed Jany. 2nd, 1897. Henry D. Lang, Clerk.
By L. Davies, Deputy.

United States Circuit Court, District of Minnesota, Fifth Division.

S. J. Murphy et al. 267

vs.

P. K. Kirwan et al.

State of Minnesota,
County of St. Louis—ss.

Thomas Croswell being first duly sworn says that he is one of the above named defendants, that he had commenced work under a contract with the Government of U. S.

whereby he had agreed to survey the land in question and given bonds to have this work done by a certain date—that he was restrained by the order of this Court in this case from proceeding with his work—that he has already been damaged several hundred dollars by this order, and by this action of the complainants—and will be damaged very much more if this temporary injunction shall be granted, he therefore asks that the Court require the plfts. forthwith, before being heard in this action to file their bond, for an amount with proper sureties to secure this deft. Croswell
268 from any and all damages that he has or may sustain by the restraining order that has been made or any that shall be made in this case, in case plff. shall fail to maintain their rights to the relief demanded in this complaint and petition.

THOMAS H. CROSWELL.

Subscribed and sworn to before me this 7th day of Jany. 1897.

ALBEE SMITH,
Notary Public, Hennepin County, Minn.

269 (Notarial Seal)

Indorsed: Filed Jany. 7th, 1897. Henry D. Lang, Clerk. By L. Davies, Deputy.

United States of America.

United States Circuit Court, District of Minnesota, Eighth Judicial District, Fifth Division.

Simon J. Murphy, George O. Robinson, Elisha H. Flinn and Temple O. Dorr, Complainants,

~~In Equity.~~ vs.

P. K. Kirwan as United States Surveyor General for the
270 District of Minnesota and Thomas Coaswell, Defendants.

In Equity

State of Minnesota,
County of Hennepin—ss.

John R. Van Derlip being first duly sworn, says, that he has read the bill of complaint in the above entitled action and is familiar therewith; that he is the attorney for G. A. Burns and others, some of whom are referred to in said bill, and who are settlers upon and now occupying the land re-

ferred to in said bill, lying between the old meander boundary of Cedar Island Lake, as the same is shown upon the Government plat of said lake, in township 57 north of range 17 west in St. Louis county, Minnesota, and the actual water line of said lake.

That, as such attorney, he prepared and on or about the 14th day of August, at Washington, D. C., a petition from such settlers praying for an investigation of the facts concerning said land and the pretended survey thereof made by U. S. Deputy Surveyor Howe in June 1876, and asking for a survey of said land, if the facts warranted the same. 271

That said petition was wholly denied by the Commissioner by an order filed on or about October 6th, 1893.

That on December 15th, 1893, an appeal from said decision of the Commissioner was duly allowed by the Secretary of the Interior, and on or about the 19th day of January, 1895, the Secretary of the Interior duly made and filed his decision and order reversing the decision appealed from and directing that a hearing be had before the United States Surveyor General for the District of Minnesota to determine the facts in relation to said land and to report the same with his recommendation thereon to the Land Department of the United States. 272

That upon said appeal the complainants in the above entitled suit were represented by counsel who duly appeared and opposed the same; that thereafter and on or about the 2nd day of March, 1895, the complainants duly made application to the Secretary of the Interior for a re-hearing upon said appeal, which application was thereafter and on or about the 8th day of April, 1895, refused by said Secretary.

That on the 12th and 13th days of June, 1895, the hearing ordered, as aforesaid, was had before the Surveyor General for the District of Minnesota, at the city of Duluth, at which hearing complainants in this suit were represented by M. H. Stanford, and took part in the examination and cross-examination of witnesses; thereafter said Surveyor General duly made and filed his report of said hearing, with his opinion, setting out that the survey made by Howe in June, 1876, was fictitious and fraudulent, and recommending that a survey of said lands be ordered by the Land Department. 273

On or about September 16th, 1895, the complainants in this suit, by M. H. Stanford and Copp & Luckett, their attorneys, duly appealed from the report and recommendation of said Surveyor General to the Commissioner of the General Land Office, and such proceedings were thereafter had upon said appeal that said Commissioner duly made and filed his order and decision on the 31st day of October, 1895, approving said report and recommendation, and directing said Surveyor General to contract for and cause to be made a survey of said lands.

274 That on or about the 2nd day of January, 1896, the complainants in this suit duly appealed from said order of the Commissioner of the General Land Office to the Secretary of the Interior, and such proceedings were had upon said appeal, that hereafter and on or about the 29th day of October, 1896, the Secretary of the Interior duly made and filed his order and decision affirming the order appealed from directing the Commissioner of the General Land Office to cause a survey to be made of said land.

That on the 5th day of November, 1896, said commissioner duly made an order directed and transmitted to the Sur-
275 veyor General for the District of Minnesota directing him to make the survey sought to be restrained in this action.

Affiant further says that he was the attorney for the said petitioners in all of the proceedings referred to in this affidavit and has personal knowledge of all the matters and things herein set out.

That this affidavit is made for the purpose of opposing an application made by the plaintiffs in this suit for a preliminary injunction restraining the defendants from proceeding with the survey ordered as aforesaid by the Commissioner of the General Land Office.

276 JOHN R. VAN DERLIP.

Subscribed and sworn to before me this 6th day of January, 1897.

(L. S.) ETTA McCALL,
Notary Public,
Hennepin County, Minnesota.

Indorsed: Filed April 10, 1897. Henry D. Lang, Clerk. By T. H. Pressnell, Deputy.

United States Circuit Court for the District of Minnesota, Fourth Division.

Term Minutes September Term, A. D. 1896.

January 7th, 1897.

Thursday morning. Court opened pursuant to adjournment.

Present: Hon. William Lochren, U. S. District Judge.

HENRY D. LANG, Clerk. 277
By R. C. MABEY, Deputy.
JAMES CONWAY, Crier.

Simon J. Murphy, et al.

No. 254. vs. Fifth Division Case.

P. H. Kirwan, et al.

This cause coming on to be heard upon the return to the order to show cause why a temporary injunction should not issue in said cause, dated the 21st day of December, 1896, and filed herein, the complainants appear by M. H. Stanford, Esq., their attorney, and the defendants by E. C. Stringer, Esq., U. S. District Attorney, and Messrs. Wilson & Vanderlip, their solicitors. 278

Defendants by their solicitors, move the Court to discharge said order to show cause, which motion is argued by the solicitors for the respective parties, duly submitted, and the Court being fully advised in the premises, it is

Ordered, that said motion be, and the same is hereby denied.

The answer of said defendant filed herein was read by defendants as a part of the return on the order to show cause. 279

The return to said order to show cause is then argued by the solicitors for the respective parties, duly submitted, and by the Court taken under advisement.

United States of America,
District of Minnesota,
Fifth Division—Set.

I, Henry D. Lang, Clerk of the Circuit Court of the United States for the District of Minnesota, do hereby certify that

I have carefully compared the foregoing paper writing with the original thereof, which is in my custody as such Clerk, and that such copy is a correct copy of such original, and of the whole thereof, in the cause therein named.

Witness my hand as Clerk, and the seal of said Court. Done at my office in Minneapolis, Minnesota, this 7th day of January, A. D. 1897.

(Seal U. S. Cir. Ct. HENRY D. LANG, Clerk.

280 Dist. of Minn. By R. C. MABEY, Deputy.
Fourth Div.)

Indorsed: Filed, Jany. 15th, 1897. Henry D. Lang, Clerk. By L. Davies, Deputy.

That afterwards, to-wit, on the 11th day of January, A. D. 1897, there was filed with the Clerk of said Court the joint answer of the defendants in said cause, which said answer is, in words and figures, as follows, to-wit:

Title of Court and Cause.

INJUNCTION BOND.

281 Know all men by these presents, that Simon J. Murphy, George O. Robinson, Elisha H. Flinn and Temple E. Dorr as principals and Daniel T. Adams and Albert M. Marshall of Duluth, Minn., sureites are held and firmly bound unto P. H. Kirwan, Surveyor General of the United States for the District of Minnesota, and Thomas H. Croswell, who as P. K. Kirwan and Thomas Coaswell are the defendants in the above entitled action (the said P. K. Kirwan and P. H. Kirwan being the same person and the said Thomas Coaswell and Thomas H. Croswell being the same person), in the sum of five thousand ($5000) dollars, lawful money of the United States, to be paid unto the said P. H. Kirwan, to his successor in office and Thomas H. Croswell, their heirs, ex-
282 ecutors, administrators or assigns, for which payment well and truly to be made, we jointly and severally bind ourselves, our heirs, executors and administrators, firmly by these presents.

Sealed with our seals, and dated this 11th day of January, A. D. 1897.

The condition of this obligation is such that whereas, the above named plaintiffs have duly applied for a Writ of Injunction against said defendants in this action according to the statute in such case made and provided:

Now, therefore, if the said complainants shall pay to the said defendants such damages as they sustain by reason of the said Writ, if the Court finally decide that the said complainants are not entitled thereto, then this obligation shall be void, otherwise of force.

In testimony whereof, we have hereunto set our hands and seals on this 11th day of January, A. D. 1897.

SIMON J. MURPHY, (Seal)
GEO. O. ROBINSON, (Seal)
ELISHA H. FLINN, (Seal) 283
TEMPLE E. DORR, (Seal)
DAVID T. ADAMS, (Seal)
ALBERT M. MARSHALL, (Seal)

Signed, sealed and delivered in presence of

Fred A. Robinson,
Robert W. Bell,
as to G. O. R. and E. H. F.
A. C. McQueen,
as to S. J. M.
as to Temple E. Dorr.
John O. Gorman, 284
Osce Fauley,
Witnesses as to Albert M. Marshall.
~~R. C. Rogers~~,
M. H. Stanford, Mary Dalcour
Witnesses as to
D. T. Adams,
~~Mary Dalcour~~. R. C. Rogers
M. H. Stanford

State of Michigan,
County of Wayne—ss.

Be it known, that on this 11th day of January, A. D. 1897, came before me personally George O. Robinson and Elisha 285
H. Flinn to me well known to be the same persons who executed the foregoing bond, and each severally acknowledged the same to be his free act and deed.

(Notarial Seal) FRED A. ROBINSON,
Notary Public, Wayne Co., Mich.

State of Michigan,
County of Saginaw—ss.

Be it known that on this 23rd day of January, A. D. 1897,

came before me personally Temple E. Dorr, to me known to be the same person who executed the foregoing bond and acknowledged the same to be his free act and deed.

(Notarial Seal) OSCE FAULEY,
Notary Public in and for Saginaw County, Michigan.

Territory of Arizona,
County of Maricopa—ss.

286 Be it known, that on this 15th day of January, A. D. 1897, came before me personally Simon J. Murphy, resident of Detroit, Michigan, to me well known to be the same person who executed the foregoing bond and acknowledged the same to be his free act and deed.

(Notarial Seal) D. A. SPRAGG,
Notary Public, Maricopa County, A. T.

State of Minnesota,
County of St. Louis—ss.

287 On this 30th day of January, A. D. 1897, before me personally appeared David T. Adams, and Albert M. Marshall to me well known to be the person described in and who executed the foregoing annexed instrument, and ackowledged that they executed the same as their free act and deed. I further certify that the words "as principals and David T. Adams and Albert M. Marshall of Duluth, Minn., sureties" were interlined on the first page of the annexed bond before the same was executed.

(Notarial Seal) M. H. STANFORD,
Notary Public in and for St. Louis County, Minnesota.

288 State of Minnesota,
County of St. Louis—ss.

David T. Adams and Albert M. Marshall the sureties named in and who executed the foregoing bond, being first duly sworn, doth, each for himself, depose and say, that he is a resident and freeholder of the State of Minnesota and worth the amount of ten thousand (10,000) dollars, above

his debts and liabilities, and exclusive of his property exempt from execution.

DAVID T. ADAMS,
ALBERT M. MARSHALL.

Subscribed and sworn to before me this 30th day of January, A. D. 1897.

(Notarial Seal) M. H. STANFORD,
Notary Public in and for St. Louis County, Minn.

Indorsed: The within bond and the sureties thereon, is hereby approved, in the absence of the Judge from the District. Henry D. Lang, Clerk. By T. H. Pressnell, Deputy. Filed January 30, 1897. Henry D. Lang, Clerk. 289

By T. H. Pressnell, Deputy.

ORDED FOR INJUNCTION.

United States of America.

United States Circuit Court, District of Minnesota, Eighth Judicial Circuit, Fifth Division.

Simon J. Murphy, George O. Robinson, Elisha H. Flinn and Temple O. Dorr, Complainants, 290

~~In Equity~~. vs.

P. K. Kirwan as United States Surveyor General for the District of Minnesota, in the bill of complaint herein called P. K. Kirwan and Thomas H. Croswell, in the bill of complaint herein called Thomas Coaswell, Defendants. In Equity

The hearing on the motion and order to show cause before this Court at the Chambers of the Judge in the Federal Building in the City of Minneapolis on Thursday the 7th day of January, A. D. 1897, having been brought for hearing on due notice served upon the defendants herein praying 291 that a temporary injunction of this Court should issue restraining the defendants during the pendency of the above entitled action from entering into any contract, or perfecting a contract partially entered into, for the survey of lands in the said bill of complaint described, or any part thereof, from surveying the same or causing the same to be surveyed in any manner, said lands being situated in the County of St. Louis, State of Minnesota, described as follows, to-wit:

Sections one (1), two (2), three (3), four (4), five (5), six (6), seven (7), eight (8), nine (9), ten (10), eleven (11), twelve (12), thirteen (13), fourteen (14), fifteen (15), and sixteen (16), township fifty-seven (57), north of range seventeen (17), west; all parties being present, and after reading the bill of complaint herein, and the answer of the defendants, and after hearing the argument of Wilson & Vanderlip, counsel for defendants, and Edward C. Stringer, United States Attorney, solicitor for the defendants, in opposition thereto, and M. H. Stanford, solicitor for the complainants, in sup-
292 port of said motion and order to show cause.

It is ordered, that on filing an injunction bond signed by the above named complainants, with two sureties, residents of the State of Minnesota, in the penal sum of five thousand dollars ($5,000), said sureties to justify in the sum of ten thousand dollars ($10,000) each, said bond to be approved by the Clerk of said Court, that an injunction issue out of this Court restraining the above named defendants, their servants, agents or attorneys, during the pendency of the above entitled action, or until the further order of this Court, from entering into any contract, or perfecting a contract partially entered into, for the survey of the lands hereinbefore de-
293 scribed, or any part thereof, or from surveying the same or causing the same to be surveyed. That the restraining order heretofore made in this action shall stand and be of full force and effect until the injunction shall issue as ordered.

WM. LOCHREN, Judge.

Minneapolis, April 2, 1897.

Indorsed: Filed April 3, 1897. Henry D. Lang, Clerk.

By T. H. Pressnell, Deputy.

United States of America.

United States Circuit Court, District of Minnesota, Eighth
294 Judicial Circuit, Fifth Division.

TEMPORARY INJUNCTION.

Simon J. Murphy, George O. Robinson, Elisha H. Flinn and Temple & Dorr, Complainants,

~~In Equity~~. vs.

H. P. Kirwan as United States Surveyor General for the District of Minnesota, in the bill of complaint herein called P. K. Kirwan and Thomas H. Croswell, in the bill of complaint herein called Thomas Coaswell, Defendants.

In Equity

The United States of America, to the Defendants H. P. Kirwan and Thomas Croswell:

Whereas, the complainants Simon J. Murphy, George O. Robinson, Elisha H. Flinn and Temple E. Dorr have filed their bill of complaint and motion in the above Court praying among other things that the temporary injunction of this Court should issue restraining the defendants during the pendency of the above entitled action or until the further order of this Court, from entering into any contract, or perfecting any contract partially entered into, for the survey of lands in the said bill of complaint described, or any 295
part thereof, from surveying the same or causing the same to be surveyed in any manner, and it appearing to the satisfaction of this Court from the said bill of complaint and motion and the affidavits and proofs in support thereof duly submitted, that sufficient grounds exist therefor, and the necessary and proper bond having been given and approved, and filed with the Clerk of said Court,

Now, therefore, in consideration thereof, and of the particular matters in said bill of complaint and motion set forth, you, and each and every of you, are strictly commanded that, until the further order of this Court, you and each of you, your and each of your servants, agents, attorneys, 296
employes, and all persons acting under the control, authority or direction of you or either of you, do absolutely refrain and desist from entering into any contract, or perfecting any contract partially entered into, for the survey of lands in said bill of complaint described, or any part thereof, from surveying the same or causing the same to be surveyed in any manner, said lands being situated in the County of St. Louis, State of Minnesota, described as follows, to-wit:

Sections one (1), two (2), three (3), four (4), five (5), six (6), seven (7), eight (8), nine (9), ten (10), eleven (11), twelve (12), thirteen (13), fourteen (14), fifteen (15), and sixteen (16), township fifty-seven (57), north of range seventeen (17) west. 297
And this Injunction you will observe under the penalty of the law.

Witness, the Honorable Melville W. Fuller, Chief Jstice of the United States the 10th day of April, A. D. 1897, and of the Independence of the United States of America the one hundred and twenty-first.

U. S. Circuit Court
Seal Dist. of Minn.
Fifth Division.

HENRY D. LANG, Clerk.
By T. H. PRESSNELL, Deputy.

TED STATES OF AMERICA)
istrict of Minnesota)-ss
[illegible] certify and return that I served the an-
[illegible] Injunction on the therein named De-

POOR COPY

COPY BOUND CLOSE IN CENTER

Now, therefore, in consideration thereof, [illegible] ticular matters in said bill of complaint and motion set forth, you, and each and every of you, are strictly commanded that, until the further order of this Court, you and each of you, your and each of your servants, agents, attorneys, 296
employes, and all persons acting under the control, authority or direction of you or either of you, do absolutely refrain and desist from entering into any contract, or perfecting any contract partially entered into, for the survey of lands in said bill of complaint described, or any part thereof, from surveying the same or causing the same to be surveyed in any manner, said lands being situated in the County of St. Louis, State of Minnesota, described as follows, to-wit:

Sections one (1), two (2), three (3), four (4), five (5), six (6), seven (7), eight (8), nine (9), ten (10), eleven (11), twelve (12), thirteen (13), fourteen (14), fifteen (15), and sixteen (16), township fifty-seven (57), north of range seventeen (17) west. 297
And this Injunction you will observe under the penalty of the law.

Witness, the Honorable Melville W. Fuller, Chief Jstice of the United States the 10th day of April, A. D. 1897, and of the Independence of the United States of America the one hundred and twenty-first.

U. S. Circuit Court
Seal Dist. of Minn.
Fifth Division.

HENRY D. LANG, Clerk.
By T. H. PRESSNELL, Deputy.

[illegible] STATES OF AMERICA)
[illegible]strict of Minnesota)-ss
[illegible] hereby certify and return that I s erved the an-
[illegible] temporary Injunction on the therein named De-
[illegible] P.H.Kirwan,asU.S.SurveyorGeneral for the
[illegible] of Minnesota by handing to and leaving a true
[illegible]rect copy thereof with him at St.Paul in said
[illegible] on the 14th. day of April A.D.1897.
[illegible]12 R.T.O'Connor U.S.Marshal
By Frank A.Donahower,Deputy.

[illegible]TATES OF AMERICA)
[illegible]t of Minnesota)-ss.
[illegible]y certify and return that I servedthe a
[illegible]porary Injunction on the therein named
[illegible] Thomas H.Croswell by handing to and
[illegible] a true and correct copy thereof with him
[illegible]ip at St.Paul,in said district on the 23rd.
[illegible]me A.D.1897 .R.T.O'Connor. U.S.Marshal.
By F.A.Donahower, Deputy .

STIPULATION OF FACTS AND EVIDENCE.

United States of America.

United States Circuit Court, District of Minnesota, ~~Eighth Judicial Circuit~~, Fifth Division.

Simon J. Murphy, George O. Robinson, Elisha H. Flinn and Temple O. Dorr, Complainants,

vs.

298 P. H. Kirwan, as United States Surveyor General for the District of Minnesota and Thomas H. Croswell, Defendants.

It is hereby stipulated by the respective parties above named that upon the trial of the above entitled suit, the copy of the deposition of Elisha H. Flinn, taken before the United States Surveyor General, at the St. Louis Hotel in the City of Duluth, Minnesota, on the 18th day of June, 1895, in the Matter of the Petition of G. A. Burns et al., and the copy of the deposition of Simon J. Murphy, taken upon interrogatories and cross-interrogatories propounded to him in the same proceeding on the 11th day of June, 1895, which
299 copies are attached hereto, marked "A," may be offered in evidence by either party to this suit, with the same force and effect as if each of said depositions had been taken in this suit; that the following statement of facts is hereby admitted to be true, for the purposes of this suit, and no proof need be produced or offered by any party upon the trial of the above entitled suit as to any of said facts, AND SAID COURT SHALL BE AT LIBERTY TO DRAW THE SAME INFERENCES THEREFROM THAT IT MIGHT DRAW IF THE SAME FACTS WERE ESTABLISHED BY EVIDENCE BEFORE IT UPON TRIAL, and they may be taken by said Court to be true. Said depositions and stipulations of facts to be subject to the right of any party to object to
300 any part thereof as incompetent, irrelevant or immaterial under the issues presented by the pleadings herein. Either party hereto may take proof upon any issue in this case not in conflict with the facts hereby stipulated.

STATEMENT OF FACTS.

1. The defendant Thomas H. Croswell is and at the time of the commencement of this suit was, a deputy surveyor of the United States, duly appointed and authorized as such by contract and bond, of which copies are attached to the ans-

wer herein, marked Exhibit "A," and which have been duly approved by the Commissioner of the General Land Office as provided by law.

2. On or about April 26th, 1876, a contract for the survey of all lands in township Fifty-seven (57) north of range seventeen (17) west, in St. Louis county, Minnesota, was made by the Government of the United States with one Henry S. Howe, as a Deputy Surveyor of the United States.

3. Thereafter said Howe made and filed what purported to be field notes of a survey of said township, from which a 301
purported plat of said township was thereafter made, and approved by the Surveyor General for the District of Minnesota, and by the Commissioner of the General Land Office, of which plat Exhibit "A" attached to the bill of complainants herein is a substantially correct copy.

4. There is no evidence upon the ground that any actual survey of said township fifty-seven (57) was ever made by said Howe, as required by his said contract, or by the rules and regulations of the General Land Office, or at all, beyond running and due marking of the exterior boundary lines of said township, where the section, quarter, and other
posts and markings established by him are, and always have 302
been, clear, distinct and readily found and traced. There is no evidence that section lines were ever run by him in or across said township, or section corner posts or quarter posts ever located or set by him, except a corner post at the northwest corner of section thirty-six (36), and a quarter post in the western line of said section thirty-six (36), and there is no evidence that witness trees were ever blazed or marked by him.

Cedar Island Lake is a navigable, deep and permanent body of water, fed principally by springs, having an area of about nine hundred (900) acres, instead of about eighteen
hundred (1800) acres as described in the field notes of Howe 303
and shown upon the government plat; instead of the shores of the lake being low and swampy, as stated in said field notes, the banks are generally high and sloping lands of an agricultural quality, extending around the lake, and they supported in 1876, a good growth of pine and other forest trees large enough for lumbering, which trees will not grow in water, and still exist thereon; that the character of the lake and the land surrounding it was practically the same in 1876 that it is today ;that no material part of the land

surrounding the lake is accretion or reliction; THAT SOUTHERLY AND WESTERLY OF CEDAR ISLAND LAKE ARE FIVE OTHER DEEP, NAVIGABLE AND PERMANENT LAKES, LYING IN THE SAME TOWNSHIP, NONE OF WHICH IS SHOWN BY THE HOWE SURVEY OR UPON THE GOVERNMENT PLAT THEREOF, AND SAID LAKES HAVE BEEN SOLD BY THE GOVERNMENT AS LAND; that at divers times, from a time soon after the survey was puported to have been made down to the present, competent woodsmen have made exam-
304 ination of the lands in said township, and since the winter of 1893 and 1894, various surveys thereof have been made by competent surveyors, but no monument, section corner or quarter post, meander monuments, or any blazed lines or trees have ever been found except on the boundary lines of the township and on the western line of section thirty-six (36), and at the northwest corner thereof; that none of the posts, monuments, lines or witness trees specified in the field notes of Howe have ever been discovered, except as above stated, and that at many places where they purport to have been established by him, said points are in lakes, then and now deep and permanent, and where the water is
305 upward of thirty feet in depth; that the outlet stream of the lake did not run, at the time of said survey, as described in said field notes and as delineated upon said plat, but left, and, still leaves, the lake at a point that would be near the southwest corner of section two (2) of said Government plat, instead of in section eleven (11), and runs southeasterly, instead of southwesterly, emptying into the St. Louis river near the southwest corner of section twenty-five (25) in the easterly tier of sections in said township.

5. There is no evidence that any meander line of said lake was ever surveyed by said Howe, or any meander posts placed by him about said lake, except one where the north
306 line of said township encounters said lake. The land lying between the actual water line of said lake and the meander line of said lake, as delineated upon the government plat of said township, comprises the land in controversy in this suit, and is the land directed to be surveyed by the Commissioner of the General Land Office, and referred to in the surveyor's contract, Exhibit "A," attached to said answer.

6. The land in said township south of said lake is generally lower than that surrounding said lake, and if Cedar Island Lake covered the land shown upon said government

plat it would necessarily cover the entire township lying to the south thereof.

7. Prior to the purchase by complainants, or by any of them, of any of the lands surrounding said lake as platted, in sections two (2), three (3), four (4), nine (9), ten (10), and eleven (11), in said township fifty-seven (57), said lands were at their instance and in their behalf, examined by experienced and competent woodsmen, and the general and riparian character thereof ascertained, and the quantity of timber thereon estimated and reported by such woodsmen to said complainants before they purchased said lands? 307

8. Said woodsmen, and all land-lookers and estimators, were, and are, accustomed to locate, survey and examine public lands and timber lands by reference to, and by the aid and direction of, the purported government plats relating to such lands, and of the section and other posts, lines and markings established by the government surveyor upon such lands; but when said lands were so examined as aforesaid, and when the complainants, and each of them, acquired the interests in the respective tracts of land surrounding said lake now claimed by them, respectively, it was impossible to locate any government subdivision in said township, 308 except by measurement from the exterior lines of said township, by reason of the entire absence of interior lines or markings, and of corner and quarter posts; and at the time said lands were originally entered in the Government Land Office, location thereof, except as aforesaid, was likewise impossible.

But complainants do not, by the stipulations of this paragraph, admit that they had any actual knowledge of the facts therein stated, at the time they acquired said lands.

9. Prior to the commencement of this suit, the United States had patented, according to the government plat of the Howe survey thereof—which is the only government plat 309 of said township—all the fractional government lots in said township reported in the field notes returned by said Howe; and all other lands in said township, outside of the meander line of Cedar Island Lake, shown by the field notes and plat of said Howe survey, had then been patented by the government. The complainants are the grantees and holders, by mesne conveyances from the patentees, of the record title to the following fractional lots in said township, to-wit: one (1), two (2), and three (3) in section two (2); one (1) and

two (2) in section three (3); one (1) and eight (8), and portions of three (3), five (5) and six (6) in section four (4); one (1), two (2), three (3) and four (4) in section nine (9); one (1), two (2), three (3) and four (4) in section ten (10), and lot three (3) in section eleven (11).

But the admissions of fact in this paragraph are not to be construed as an admission by defendants that the lands in controversy were included in patents issued for lands in said township; neither are they to be construed as an admission
310 by complainants that the lands in controversy are not included in said patents.

10. The other permanent lakes existing in said township, and not shown upon said government plat, cover an aggregate area equal to the area of Cedar Island Lake. The patent title to a portion of said lakes was purchased by complainants as land, with their other purchases in said township.

11. The survey sought to be restrained in this suit was ordered by the Commissioner of the General Land Office upon the direction of the Secretary of the Interior, in a proceeding instituted by certain settlers upon the lands in con-
311 troversy in this suit, of which proceedings the complainants had due notice, and in which they duly appeared. The decision of Secretary Smith in said proceeding is duly reported in 20 Land Decisions, page 28, and may be used upon the hearing hereof, and Exhibit "C" attached to the answer herein ,is a true copy of the decision of Secretary Francis in said proceeding. Exhibit "2" attached to the bill in this suit, is a copy of the order of the Commissioner of the General Land Office for the making of the survey sought to be restrained in this suit, and the contract for said survey was made pursuant to said order, and not otherwise.

Exhibit "D" attached to the answer of the defendants in
312 this suit, is a true copy of the instructions prepared and delivered to the defendant Croswell and the Surveyor General, pursuant to which said survey was commenced, and was conducted until the service of the restraining order in this suit.

Dated, October 29, 1898.

ROBT. G. EVANS,
U. S. Attorney, Solicitor for Defendants.
M. H. STANFORD,
Solicitor for Complainants.

DEPOSITION OF ELISHA H. FLINN.

Q. Where do you reside? A. In Dertoit, Mich.

Q. How long have you lived there? A. Thirty years.

Q. State if you were one of the owners of the land which is in controversy?

Objected to as calling for a conclusion, and as incompetent.

A. Yes, sir.

Q. What knowledge have you of land about Ely Lake in township 57-17 in this county, Mr. Flinn? 313

A. I have no personal knowledge, never was in the township until day before yesterday, was in section 5.

Q. State what you had to do, if anything, with negotiations of purchasing this land for S. J. Murphy of Detroit?

A. I attended to the details of the purchase.

Q. State what was the basis of such purchase?

A. We purchased those lands. You want me to give the different purchases for different individuals? We purchased those lands for the pine timber and also for the lake frontage, we having a large amount of timber just north in township fifty-eight (58-17) and at that time considered that as the only outlet for the timber. The purchase of the lan in section 11, 57-17 was largely for the outlet, as we suppos- 314 ed, of the lake; also the timber on land in the western part of the lake in 9 was purchased to control that portion in case we should dam the lake as a reservoir. We had no knowledge whatever of any fraud or anything of that kind in connection with this survey.

Q. How about what you supposed to the outlet of the lake?

A. Supposed it was on section 11.

Q. You secured that to control the outlet?

A. Largely for that purpose; there was some timber on it too.

Q. Wouldn't ~~you~~ have bought it except for that? A. 315 No.

Q. How about that in section 9 covered by the waters of St. Marie's Lake? A. This is the first I knew of it when I saw the plat here, that our land on section 9 was mostly under the waters of St. Marie's Lake.

Q. Supposed all the time it was timber land? A. Yes.

MR. VAN DERLIP:

Q. The government plat that you speak of, Exhibit "A"

is a certified copy, isn't it? A. It looks just exactly like it.

(Signed) ELISHA FLINN.

Before the United States Surveyor General, at the St. Louis Hotel, in the City of Duluth, Minnesota, on the 11th day of June, A. D. 1895.

"A."

Interrogatories to be propounded to Simon J. Murphy of
316 Dertoit, Michigan, on the following interrogations:

1st Interrogatory: What is your name, age and occupation, and where do you reside?

2nd Interrogatory: State what interest you have, if any, in any portion of the following described lands situated in St. Louis county, State of Minnesota, viz: Sections 2, 3, 4, 9, 10 and 11, township 57 N. R. 17 W., 4th Principal Meridian of Minnesota, and state the particular description thereof in which you have or claim interest, if any?

3rd Interrogatory: If you state you have, or claim to have, an interest in such land, state when, and of whom, you purchased the same, and the land and interest originally pur-
317 chased by you, and where you resided at the time you made such purchase.

4th Interrogatory: If you say in answer to preceding interrogatories that you purchased any portion of such land, state what you supposed to be the true boundaries of such piece of land so purchased by you, at the time you made such purchase.

5th Interrogatory: At the time you made such purchase what evidence of the boundaries of each of such descriptions so purchased by you, did you examine?

6th Interrogatory: What did you rely upon as the evidence of the true boundaries of such land at the time you made such purchase?

318 7th Interrogatory: What was the basis of the purchase price of each piece of said land so purchased and paid for by you?

8th Interrogatory: When did you first hear of an alleged fraud in connection with the original government survey of this land?

9th Interrogatory: Before or at the time you closed the purchase of said land, had you heard of any fraud or rumors of fraud connected with the original government survey of said land?

The following are answers under oath of Simon J. Murphy to the ~~foregoing~~ interrogatories: Interrogs. answered

1. A. Simon J. Murphy. Aged eighty years. Occupation has always been that of a lumberman. Reside at Detroit, Michigan.

2. A. I own an undivided one-half interest in lots 1, 2, 3 of section 2; lots 1, 2 of section 3; lots 1, 8 of section 4; lots 1, 2, 3, 4 in section 9; lots 1, 2, 3, 4 of section 10; lot 3 of section 11, town 57 north, range 17 west; lot 2 of section 35; and lots 1, 2 of section 34, town 58 north, range 17 west, St. Louis County in the State of Minnesota. 319

3. A. On or about the 11th of April, 1883, I purchased the entire title from Philip M. and Edmond D. Graff and Daniel E. Little to lots 2, 3, 4 of section 1; lots 1, 2 of section 3; lots 1, 8 of section 4; lot 4 of section 9; lots 1, 2 of section 10, in town 57 north, range 17 west, together with lot 1 of section 34, and lot 2 of section 35, town 58 north, range 17 west. This purchase from Graff and Little included about 4000 acres tributary to Ely Lake in towns 57 and 58 north, range 17 west.

4. A. On or about February 16th, 1884, I purchased of Morris Thomas of Duluth, Minnesota, lots 1, 2, 3 of section 2, besides 80 acres on section 9 in same town. On or about 320
..... 1884, I purchased of the Nelson Lumber Company of Cloquet, Minnesota, lots 3, 4 of section 10; lot 3 and NW ¼ of SW ¼ of section 11; town 57 north, range 17 west, and lot 2 of section 34, town 58 north, range 17 west, besides about six hundred acres in sections 13, 14 and 34, town 58 north, range 17 west. On the 5th day of April, 1883, I purchased of Scot Griswold of Kent County, Michigan, lots 1, 2, 3 of section 9, and one hundred and sixty acres in sections 8 and 9, town 57 north, range 17 west, in same county. I also purchased about that time and since then other considerable tracts of pine timber in other parts of St. Louis County and Minnesota for the usual purpose of lumbering. 321

I purchased these lands for their pine timber, and originally took the title in my own name, intending to lumber the timber in the two towns above described into Ely Lake, in the usual manner of lumbering by water. At that time there were no railroads contemplated in that locality, and I bought the lands around Ely Lake to facilitate the lumbering operations of this surrounding tract of pine timber, in the usual course of business, without any knowledge of any special excess in any of the descriptions. Since the time of

this purchase I have deeded an undivided one-sixth interest in and to these lands to George O. Robinson of Detroit, Mich., and an undivided one-sixth interest to Temple E. Dorr of Saginaw, Mich., a former partner of mine in the lumber business, and have contracted to sell an undivided one-sixth interest to Elisha H. Flinn of Dertoit, Mich., where I have resided for the last twenty-five years.

5. A. When I purchased these lands around Ely Lake I relied upon the plats and government descriptions that they were bounded by the lake. I bought and paid for the
322 timber, which was estimated up to the lake shore, at the rate of about $1.65 per thousand feet at that time, which estimate included all of the timber up to the shore of the lake. The patents to all of the above described lands have been duly issued and delivered and are now in my possession, and my chain of title from the government I consider complete.

6. A. I took the report and examination of my woodsmen, relying on the government plat that the lands were bounded by the lake. I made no examination of the lands personally.

7. A. Upon the government descriptions and boun-
323 daries and upon the plats which I examined.

8. A. The object and basis of said purchase of the lands bordering on Ely Lake was their value for the timber which stood upon them and the riparian rights which said lands bordering on Ely Lake possessed for the purpose of flooding said lake for a reservoir and holding ground in case of fire, and banking ground for the lumbering of said timber. At that time no railroads had been contemplated in that locality, and I expected that this timber would be brought out through the streams and I relied upon this lake with which to lumber all this timber in that vicinity, comprising in all about 5600 acres and containing an estimate of upwards of
324 60 million feet of pine timber.

9. A. Do not know that I have ever heard that there was any fraud, I have heard indirectly, long after I had made the purchase, that the survey of the lake was not very complete, but to what extent have never known. I heard such rumors about them years ago.

10. A. No.

11. A. Nothing.

(Signed) SIMON J. MURPHY.

Cross-Interrogatories to be propounded to Simon J. Murphy, of Detroit, Mich.

1st Cross-Interrogatory: Did you know the quantity of land in each government lot or subdivision purchased by you as shown by the government survey; if you answer yes, state what was the area of each tract of land bought by you in sections 2, 3, 4, 9, 10 and 11 in township 57 north of range 17 west in St. Louis County, Minn.?

2nd Cross-Interrogatory: Where were you at the time of the purchase of said land; and, if you answer that you were not upon the land itself, state who negotiated the purchase in your behalf. 325

3rd Cross-Interrogatory: Did the person or persons who purchased said land for you acquire any interest therein in their own behalf?

4th Cross-Interrogatory: Has any of the persons who negotiated the purchase of the interest in any part of said lands now claimed by you, any interest in any part thereof; if you answer yes, state what that interest is, and when, and from whom, and how acquired.

5th Cross-Interrogatory: State fully the interest of each person in said land beside yourself, and how, when and from whom the interest of each was acquired. 326

JOHN R. VAN DERLIP,
Attorney for Petitioners.

The following are the answers made under oath by Simon J. Murphy to the cross-interrogatories hereunto annexed:

1st. A. No, except as shown by the government plat, the purchase being largely for the lake frontage for lumbering purposes, and on the basis of a rate per stumpage for all the timber clear to the water's edge of Lake Ely.

2nd. A. At Detroit, my home. Robinson & Flinn of Detroit were associated with me in the negotiations of all my Minnesota lands at that time, comprising a purchase of upwards of 125 million feet of lumber. 327

3rd. A. Mr. Robinson and Mr. Flinn acquired each an undivided one-sixth interest by contract at time of purchase, to be deeded to them on full payment by each of a one-sixth cost of said timber, with interest. About 1889, I gave Mr. Robinson a deed to his one-sixth interest upon his full payment of the same; Mr. Flinn still holding his contract inter-

est for the same. Also, about 1891 deeded Mr. Dorr of Saginaw, a partner of mine in the lumber business, a one-sixth interest, upon his making the full payment for the same with interest.

4th. A. Answered in number 3. No other person has any interest in the title to said lands.

5th. A. Answered in number 3.

(Signed) SIMON J. MURPHY.

Indorsed: Filed May 4, 1899. Henry D. Lang, Clerk.

328 By Thos. H. Pressnell, Deputy.

United States of America.

Circuit Court of the United States for the District of Minnesota, Fifth Division, in Equity.

Simon J. Murphy, George O. Robinson, Elisha H. Flinn and Temple E. Dorr, Complainants,

vs.

329 P. H. Kirwan, as United States Surveyor General for the District of Minnesota, and Thomas H. Croswell, Defendants.

Depositions of witnesses taken before Robert M. Chamberlain, a notary public in and for the County of Wayne, State of Michigan, at his office room 43 Moffat Block, in the City of Detroit in said County of Wayne on the twenty-second day of December, A. D. 1898, at 10 o'clock in the forenoon of that day, for use on the hearing of the above entitled cause on the part of the complainants, pursuant to the notice hereto annexed marked Exhibit A.

330 On the said twenty-second day of December, A. D. 1898, the said complainants appeared by their solicitor, Fred A. Robinson, and the said defendants by Robert G. Evans, United States District Attorney for the District of Minnesota, and it was agreed between the said counsel for the respective parties that the taking of said depositions should be adjourned until Tuesday the twenty-seventh day of December, A. D. 1898 at 10 o'clock A. M. of said day, at the same place. The taking of said testimony was commenced, pursuant to said adjournment, on the twenty-seventh day of December, A. D. 1898, at 10 o'clock A. M. of said day, at

the office of Robert M. Chamberlain, a notary public in and for said County of Wayne, room 43 Moffat Block in the City of Detroit in said county, there being present Fred A. Robinson, Esq. representing the complainants and Robert G. Evans, United States District Attorney for the District of Minnesota, representing the defendants. It was agreed between the counsel for the respective parties that all objections to questions propounded to witnesses, and the answers thereto, other than as to the form of the questions, are reserved and may be made on the reading of this deposition at the hearing of said cause as fully, and with the 331
same effect, as though made at the time and noted by the officer taking the deposition. It is stipulated and agreed by the solicitors for the respective parties that the testimony of the witnesses may be taken down by stenographer in short-hand and afterwards written out by him, and that the signatures of the several witnesses to their respective depositions are hereby waived.

GEORGE O. ROBINSON, a witness produced on behalf of said complainants, being first duly sworn to tell the truth, the whole truth and nothing but the truth upon oral interrogatories propounded to him by Fred A. Robinson, solicitor for complainants, testifies as follows: 332

Q. What is your name, age, occupation, and where do you now reside?

A. My name is George O. Robinson, my age is 66 years, I reside in the city of Detroit, Michigan; my occupation is that of a retired lawyer and pine land dealer, associated with Mr. Elisha H. Flinn under the firm name of Robinson & Flinn.

Q. How long have you resided in Detroit continuously?

A. Upwards of 37 years.

Q. State what interest you have, if any, in sections ,2 3, 4, 9, 10, 11, Town 57 N. R. 17 West, St. Louis County, Minn., 333
and the particular descriptions thereof in which you have, or claim to have an interest, if any?

A. I own a one-sixth interest in the lands purchased mostly in 1883 as follows: The first purchase made of lands around Cedar Island Lake was made by warranty deed, dated on or about the 11th day of April, 1883, from Philip H. Graff and Daniel E. Little, covering a tract of pine timber in Towns 58 N. R. 17 West and 57 N. R. 17 West, located mostly north of Cedar Island Lake in sections 13, 14, 22, 23, 24, 27, 31, 32, 34, 35 in Township 58 N. R. 17 W., and

lots 2, 3, and 4 in section 1, lot 1 and 2 in section 3, lots 1 and 8 in section 4,and lot 4 in section 9, lots 1 and 2 in section 10, in Township 57 N. R. 17 W., around Cedar Island Lake; also lot 1 in section 34, lot 2 in section 35, Township 58 N. R. 17 W., paying $65,000 for the entire tract, estimated by us to contain 43,000,000 feet of timber.

Also on the 5th day of October we purchasde a second tract from Scott Griswold and wife by warranty deed, being lots 1, 2 and 3 of section 9 in T. 57 N. R. 17 W., and 160 acres in sections 8 and 9, same township.

334 Also, on or about Dec. 29th, 1883, we purchased by warranty deed from C. N. Nelson Lumber Company lots 3 and 4 in section 10, lot 3 and the northwest quarter of the southwest quarter of section 11, T. 57 N. R. 17 W., and lot 2 of section 34, T. 58 N. R. 17 W., besides 600 acres in sections 13, 14 and 34, T. 58 N. R. 17 W.

Also on or about February 16th, 1884, we purchased in the same manner of Morris Thomas, of Duluth, Minn., lots 1, 2, and 3 of section 2, the S. W. ¼ of the N. W. ¼ and the N. W. ¼ of the S. W. ¼ of section 9, in T. 57 N. R. 17 W. The title to theselandswastaken in the name of Simon J. Murphy, who furnished the money at that time for the en-
335 tire tract under an agreement with both Elisha H. Flinn and myself that each should have a 1-6 interest on paying for the same. About the same time we purchased, in connection with these tracts about 7,000 acres additional lands in St. Louis County, Minn.

Q. Where did you reside when you made said purchase, and of whom did you purchase the same, and when?

A. I resided in Detroit, and purchased these lands as above stated and at the time stated in my answer to the preceding question.

Q. At the time you purchased this land what evidence did you have of the boundary of the several descriptions?

336 A. No other evidence than the government plats and the lines and corners as found and the survey made by our woodsmen.

Q. What examination did you make of such evidence of boundaries and for what purpose did you make such examiation?

A. We made no other examination than that made by our woodsmen in identifying the land from the government plats sufficiently for the purpose of estimating the timber and locating the riparian rights on the lake.

Q. What evidence did you rely on in making said purchase?

A. We relied upon the government plats showing lots bounding on the lake and that they contained the amount of timber estimated by our woodsman.

Q. What was the basis of the purchase price of each parcel of land so purchased?

A. The basis of each purchase, as far as I recollect, was the price per thousand feet for the actual amount of timber estimated upon the entire tract as identified by our woodsman. The fractions around Cedar Island Lake were considered as of especial value, aside from the timber, for their riparian advantages for lumbering purposes. 337

Q. When did you first hear of alleged fraud in connection with the original survey of this land?

A. I never heard of any alleged or other fraud until after this controversy had been commenced, and since then I have never heard of it in any other connection.

Q. When did you first hear of inaccuracies in the original government survey of this land?

A. Some time about the years 1892 and 1893; about the time the squatters referred to in this suit commenced to take possession of the lands about the lake. 338

Q. What, if anything, had you heard of inaccuracies in the government survey of this land, or of fraud in connection therewith, before or at the time you closed said purchase?

A. I had not heard of either at that time.

Q. State what rumors of fraud, if any, you had heard in connection with the original government survey of this land before or at the time you closed the purchase of the same?

A. I had not heard of any.

Q. State what rumors of inaccuracy in said government survey, if any, you had heard before or at the time you closed said purchase? 339

A. I have no recollection of having heard at that time of any inaccuracies relating to the survey of this land, until nearly 10 years after the purchase of this land.

Q. State what circumstances, if any, had come to your knowledge before or at the time you purchased this land suggesting fraud or a suspicion of fraud or of inaccuracy in connection with said government survey?

A. Not any such circumstances came to my knowledge.

Q. In examining the evidence of the boundaries of the several parcels of land so purchased by you and the estimates of timber on the several tracts state what circumstances, if any, appeared which would suggest fraud or inaccuracy in the government survey? I refer to examination made with a view of making said purchase.

A. There were no circumstances in any way suggesting fraud or inaccuracy in the government survey in this purchase, nor were there circumstances in connection with the purchase of this land at that time differed from scores of
340 other purchases of other lands made in a similar manner.

Q. State what was the feature of this land and timber as presented to you which you relied on in making the purchase and which principally induced you to make the purchase?

A. The features presented to us in making these purchases were: 1st. The amount of timber, of which we secured in this purchase some 43,000,000 feet lying tributary to Cedar Island Lake: 2nd. The value of the boundaries on that lake to us in lumbering the timber, as at that time it appeared that this was the only outlet for this whole tract of timber, and the fact that we received this
341 tract through Mr. Thomas Presnell, a former United States Land Register gave us confidence in the regularity of the tract. About the same time we purchased other timber in T. 57 N. R. 17 W. and T. 58 N. R. 16 and 17 W. and also timber elsewhere in St. Louis County, Minn., aggregating by our estimate 125,000,000 feet of pine timber, and this tract was purchased in connection with the other tracts for the purpose of facilitating lumbering.

And upon Cross-Examination by Mr. Robert G. Evans said witness testified as follows:

Q. How much timber, Mr. Robinson, did you estimate
342 to be in the tracts of land that are in controversy in this suit at the time of the purchase?

A. I did not estimate it.

Q. I understood you to say that you paid for the lands on the basis of so much per thousand feet and it was estimated for this purpose?

A. It was all estimated in one body and reported to us as 43,000,000 feet of pine.

Q. How much did you buy in addition to the land that is in controversy at that time?

A. We bought what was estimated by our woodsman as 43,000,000 feet.

Q. How many acres were shown by the plats in that purchase?

A. I can tell by a little estimating, but I think it was about 4,000 acres.

Q. Who made the estimate of the land in question?

A. Mr. Erwin Eveleth.

Q. Is he the woodsman you referred to in your examination in chief as having made an estimate of the lands? 343

A. Yes, sir.

Q. Was this land heavily timbered or sparsely?

A. Rather heavily timbered, quality, that is the whole body.

Q. Did you have in the return from Mr. Eveleth estimates on each particular description?

A. We did not at that time.

Q. Isn't it usual for the estimator to take the plat or descriptions of land and estimate each government subdivision separately.

A. It is. Afterwards we had them all estimated separately; but in purchasing this we had to determine at once whether we would take it or not, as our option was expiring, 344 and he urged us to take it.

Q. Mr. Eveleth went over the land in person to make this estimate, did he not?

A. He had assistants, but he was there directing the work, as chief.

Q. At your request?

A. I could not say that we had affirmatively requested it, but it was in our interest.

Q. Well, he was representing you in making this examination?

A. Yes, it was for us.

Q. When you say "for us" you mean for the plaintiffs in 345 this suit?

A. Yes, I do. Mr. Murphy was then taking the title, but it was for the interest of the plaintiffs.

Q. You spoke of making no other examination than that made by your woodsman except that which was sufficient to fix riparian rights, did you in person, or any member of your firm, make any further examination of the lands than that made by Mr. Eveleth?

A. No; I referred to the examination made there for us

and reported. The lake was the outlet, we looked out for an outlet in buying timber.

Q. Mr. Eveleth made you a report in writing, did he?

A. We had a report of the estimates of the main bodies o fthe tract—a statistical report.

Q. Is it a statement of the lands in detail?

A. Usually by section or quarter section.

Q. Did vou have such a one in this case?

A. After the purchase I think we had statistical estimates of the timber by government subdivisions, or sec-

346 tions.

Q. These reports were made by Mr. Eveleth in connection with that land, were they?

A. Yes, sir.

Q. Have vou these reports now in your possession?

A. I suppose we have.

Q. Where are your files?

A. In our office. They have been laid away for many years.

Q. Where you had those reports, was it your habit to transcribe the same into records or books in your office so as to show hom much timber you claimed to have on each

347 government sub.?

A. Not particularly, no. We used to make estimates and to have sheets—statistical recapitulations—group them up.

Q. Isn't it your general practice to transcribe from these sheets sent out by your estimator into some book kept in your office the information thus obtained, so that it can be kept for future reference?

A. Not in any particular books. We don't keep books that way. We have them in sheet form to give out to copy. We have tracts.

Q. Do you have tract books in your office showing combined land possessions?

348 A. We have tract books, but not estimates.

Q. The estimator turned in to you small books in which he has entered a description of each particular tract and the amount of timber estimated by him upon such tract, does he not? When you are considering the making of a purchase?

A. That is usual, I guess.

Q. Now do you keep these books or are they given back to the estimator?

A. We have usually kept them.

Q. Do you transcribe from these books the information thus obtained in any form, and if so, in what?

A. As previously stated, on sheets—what are called statistical sheets.

Q. What are those sheets used for?

A. For the purpose of having information as to the amount and quality of the timber.

Q. Do they also state the amount of land?

A. States the descriptions. The amount of land don't cut a figure with us; it was the amount of pine that cut the figure. 349

Q. Will you make an examination of your records and see if you can find either the books or statistical sheets of the character described above, which refer to these particular lands in controversy, and produce them this afternoon?

A. I will endeavor to do so.

Q. I understood you to say, Mr. Robinson, that there were no circumstances in the estimates or any information that you had respecting this land before you bought it (that is that you personally had) suggesting inaccuracy other than that which accompanied other purchases made in a similar manner; what do you mean by that? 350

A. We were buying and selling lands in our office at that time for ourselves and some for other parties and found inaccuracies in surveys frequently.

Q. As a matter of fact there was a very gross inaccuracy in this particular case, was there not?

A. We didn't know it at that time, at least I didn't know it at that time.

Q. But there was in fact?

A. There seems to have been.

Q. In fact there was no regular survey made, as we have already said?

A. That is a fact that I would not attempt to say; I have no knowledge of the fact. It has evidence of a very inefficient survey, if any. 351

ERWIN EVELETH, a witness produced on behalf of said complainants, being first duly sworn to tell the truth, the whole truth, and nothing but the truth, upon oral interrogatories propounded to him by Fred A. Robinson, solicitor for complainants, testified as follows:

Q. Mr. Eveleth, state your name, address, age and occupation?

A. Erwin Eveleth; Corunna, Michigan; age 57; occupation land-looker and estimator.

Q. How long have you been engaged in the business of examining and estimating lands?

A. Since 1866.

Q. Did you examine the lands purchased by Simon J. Murphy around and in the vicinity of Cedar Island Lake in T. 57 and 58 N. R. 17 W., St. Louis County, Minn., and when?

A. I did, in the spring and fall of 1883.

352 Q. About how much land did you examine and estimate that was purchased by him at that time?

A. There was like about 10,000 acres that was purchased that season.

Q. About how much that was purchased tributary and adjoining Cedar Island Lake, should you think?

A. About 4,000 acres.

Q. In locating the various lots, fractions and other descriptions upon what did you rely?

A. Upon the survey as we found it around the lake.

Q. Did you have a government plat?

A. I did, yes, sir; I went by that.

353 Q. Did you have any knowledge that there was any fraud or irregularity in the survey of the lands around Cedar Island Lake at the time you took the government plats and went to examine them?

A. I did not.

Q. Did you know at the time you looked the land that the fractions on Cedar Island Lake were larger than they appeared to be on the government plat?

A. Yes, I did. They were larger on the north side than they appeared to be on the government plat.

Q. Did such excess occasion you any surprise or suspicion of and fraud in the survey?

A. No, sir, it did not.

354 Q. Is it or is it not usual and common that fractions adjoining lakes and meanders of rivers are often greater or smaller than appears by government plat?

A. It is.

Q. Did you note any other apparent excess or shortages in the lands purchased by Mr. Murphy at that time?

A. I did in T. 58-17 on section 31.

Q. Does any other occur to you?

A. Well, when we were examining land in the fall south on section 9, there was some shortage in the land there.

Q. Were these instances of excess or shortages?

A. Shortages on that in T. 58-17; shortages in that on section 9, T. 57-17. There was a lake that was not put on the plat at all, but was put on as lands by the government, and we purchased them from the original owners.

Q. Did you, prior to the purchase being made by Mr. Murphy, include in your report to him or to Robinson & Flinn any such excess or shortages in these lands?

A. I did not because it occurs so often that we don't pay any attention to it at the time when I make the reports.

355

Q. When did you first hear of alleged fraud in connection with the survey of Town 57 N. R. 17 West?

A. I think some time in the fall or spring of 1891. I didn't ever know of any fraud until the settlers went in there that have gone on and made these claims now. It must have been about in 1892 or 1893, before I heard of any alleged fraud.

And upon Cross-Examination by Robert G. Evans, said witness testified as follows:

Q. Mr. Eveleth, how long have you been engaged in the business of estimator of pine lands?

A. From 1866 to the present time.

356

Q. Are you a surveyor?

A. No, I am not a practical surveyor.

Q. Do you understand how to find and run lines in woods?

A. Yes, I do.

Q. Without going into detailed surveying, you understand how to find corners of descriptions of lands in woods as you go through—that is necessary to your business?

A. Yes, sir.

Q. Do you take a surveyor along with you when you go to find these?

A. No, sir.

357

Q. What do you take?

A. A compass, and a plat.

Q. Then you find corners and run your lines.

A. Yes, sir.

Q. Now in making the estimate of the land in controversy in this suit did you pursue that course?

A. Yes, sir.

Q. You know what land is in controversy in this suit, do you not?

A. Yes, I think I do.

Q. Now, how did you find the land in question?

A. I went in on town line coming from the east and went to the lake, and when I came in from the east line we found the meander corners on the lake of section 2 and section 35. After that we didn't find anything until we crossed the lake and struck the town line north of the lake, although we looked around there for half a day trying to find some marks, but we didn't find any surveyor's lines until we struck the town line north of the lake. We could only find the corners on the town line.

Q. What corners?

358 A. Corners of 32 and 33 in T. 58 and of 3 and 4 in Town 57.

Q. And in the township north?

A. Town lines between two towns.

Q. Did you find any other markings or corners besides these two?

A. This is all I think I found; also the quarter post on that town line.

Q. Did you find a corner established in section 2 in Town 57 and section 35 in Town 58?

A. Yes, that was at the north-east corner of section 2. That would be the corner of 1 and 2, T 57-17, and 35 and 36, T 58-17.

359 Q. On the town line?

A. On the town line east of the lake. I think it was about half a mile after we crossed the quarter post that we struck the meander—a little over half a mile—I mean the meander as laid on the government plat.

Q. How far was it from the actual lake?

A. The meander would be right on the lake.

Q. Now, you say that you looked around when you got west of the lake in sections 3 and 4 for about half a day to find corners, didn't you?

A. Yes, to find lines.

Q. And you could not find anything?

A. No, sir.

360 Q. Then you went north and found a section corner?

A. Yes, sir.

Q. After you found section corners what did you do?

A. We had a government plat and we would have to take the proper lots. The lots ran from the lake up to the town line.

Q. Did you run from the town line down to the lake on these lot descriptions?

A. Yes, we did.

Q. Can you tell me how far it was from the corner of 3

and 4, in Town 57, and 33 and 34 in Town 58, south to the shore of the lake?

A. I think it was 3-4 of a mile; it may have been a little over that.

Q. Did you make any memorandum of your survey at that time?

A. Nothing except a note that it was a large lot, I didn't make any memorandum of it.

Q. Did you have the field notes with you of the government survey?

A. Only the plat, no field notes. 361

Q. Was anything noted on that plat to show you the length of the boundary lines?

A. No, sir, there was not.

Q. Was there something to show you the number of acres?

A. No, I didn't have the number of acres, only the number of the lots.

Q. You had a copy of the government plat?

A. Yes, but they didn't put that part on it.

Q. Who made it?

A. Mr. Cary was the Register, but I don't know who made the plat.

Q. Now, one of the lots claimed by the plaintiffs in this 362 suit is lot 8 in section 4; how did you find lot 8 in section 4?

A. We ran down from the quarter post over the town line and measured down 80 rods from the line, which would be a subdivision properly made from the line. This section is on the N. W. ¼ of section 4, this lot 8.. Then the parties we were to purchase from didn't own the N. W. ¼ of the N. E. ¼ and we paced from the line down the 80 rods and called the balance of it the lot. That would run to the lake. That would be a regular subdivision, 40 acres, which would be 80 rods wide.

Q. Well, you first found lot 1 in the N. E. ¼ of the N. E. ¼ of section 4, didn't you?

A. Yes, sir. 363

Q. And you ran side lines of that down to the lake?

A. Yes.

Q. And you estimated the timber in that?

A. Yes, sir.

Q. Ho far did you say that line extended, lot 1?

A. I think about 3-4 of mile on the west side of the lot.

Q. How far on the east line?

A. I think it was 80 to 100 rods, something like that.

Q. Wasn't it more than that?

Q. Right down the east on the east side a rods West of the West side a. yes.

PAGE CUT OFF

A. I don't think much more than that just there; it might have been a little more than that.

Because after you left that corner there you could not find the line running that way. The line angles.

I don't suppose there was a line run there, but I don't know. I found no signs of the original survey.

Q. When you got through with that lot 1, you then went 80 rods west of the township line and 80 rods south and commenced to run out that lot number 8?

A. Yes, we ran down 80 rods south from the town line.

364 Q. The same way as lot 1?

A. Yes, sir.

Q. And you ran down to the lake?

A. I don't remember whether we got down to the lake.

Q. Isn't it a matter of fact that that would not strike the lake running it on the south?

A. Well, I couldn't say whether we ran that clear down to the lake.

Q. Do you know how far?

A. I think something like 80 or 100 rods and then we angled across. I don't think we ran clear down to the lake at all.

Q. Assuming that you ran it down 100 rods, how many

365 acres would that contain?

A. About 50 acres. 100 rods, and 80 rods wide.

Q. Now how did you find the descriptions 1 and 2 in section 3?

A. Those we ran down on the line there and then paced south to find the descriptions.

Q. Did you go to the lake?

A. Yes. At the time we were there we could travel right on the lake. It was in winter and frozen up.

Q. You found nothing to mark the corners or lines of lots 1 and 2 in section 3, did you?

A. No, I found no marks whatever. We had to do that by pacing from where the meander corner came from the

366 lake, paced west, and then made the subdivisions in accordance with the pacing.

Q. Where did you commence to run lots 1 and 2 in section 3?

A. At the corner between 3 and 4.

Q. You ran south of the section line?

A. Because those lots all came from the town line to the lake.

Q. You ran to the lake?

A. Yes, sir. Paced across 80 rods and then north to —we didn't run north.

Q. You went with the actual meandering of the lake up to the town line?

A. Practically there were no meanders t oit. We took their town line and ran down, because the lots were all made right from the town line to the lake and we had no reason to subdivide those lots. We took all the land between the town line and the lake and called them the lots. I could not say how much land they contained.

Q. Did you go from the lake to the town line.

A. Yes.

Q. How far? 367

A. I could not say; about half a mile or something like that.

Q. Was the same method pursued in estimating the land in section 2?

A. Yes, sir.

Q. And the same lack of marking?

A. Well, we had an advantage there; we had the meander corner to start from on section 2 and had the line that ran east. Taht was all we had.

Q. Did you estimate the lots in 9 and 10 and 11?

A. Not then. I did in the fall, but then I just estimated some of the lands in section 10.

Q. Did you find any survey? 368

A. No government surveys. There have been some made by the men who located the lands. That is what we went by partly. I mean the men who entered the lands from the government.

Q. You found no traces of any government survey?

A. No, sir, I don't think so.

Q. Did you run those lots out practically in the same manner as you did those north of the lake.

A. Yes, only we went from meander section 2 line west far enough to come to the line between 2 and 3, and then ran west again in order to make that subdivision come.

Q. Do you know how much timber you estimated in lots 369 1 and 8 sections 3 and 4.

A. I could not tell without looking it up. I have a record of it.

Q. Have you got that record along with you?

A. No, sir.

Q. Did you turn it in to the plaintiffs.

A. Yes, sir, a copy of it.

Q. I will ask you the same question as to the timber in sections 2, 9, 10 and 11, did you keep a like record, made at the time?

A. Yes, sir. There was usually good timber on each, as estimated by me.

Q. What as the character of timber on these lands, Mr. Eveleth?

A. Pine, beech, maple and such timber as that. White pine and cedar, some tamarack and some spruce. I was estimating pine.

Q. What kind?

A. White or Norway.

Q. Can you state from recollection, either at the time
370 or as it has been refreshed, the amount of pine that you found on this land, as to whether it was heavily or sparcely timbered?

A. Some was heavily timbered, some was sparcely. It averaged very well.

Q. Taking the average there it might show more than a fair average of timber for that locality?

A. Yes, sir.

Q. Can you recollect how many million feet you found on the lands in township 57?

A. No, I could not now. That was about in 1883.

Q. It has been stated that you estimated, at the time you estimated the lands in 3 and 4, some 4,000 acres in
371 township 57 and 58 N. R. 17 W. and township 53 N. R. 14 W., and that this entire tract had about 43,000,000 feet upon it, can you state from recollection what proportion of this 43,000,000 feet was found in the lands in sections 2, 3 and 4 estimated by you at the time of that purchase?

A. No, sir, I could not without referring back to the minutes.

Q. When you made estimates of the lands in township 57 N. R. 17 W., who were they made for?

A. They were made for the plaintiffs in this suit.

Q. You sent them in written reports of your estimates, including the description of the lands gone over by you, did you not?

372 A. Yes, sir.

Q. Did these reports give in detail the various descriptions of land and the amount on each separate government subdivision?

A. I did, yes, sir.

Q. They were in the shape of a little book that you carried with you?

A. Well, I think I made the report to them on a different sheet than that.

Q. In what shape?

A. On sheets, I think.

Q. Have you seen those reports since you made them?
A. I don't think so.
Q. Have you the original memoranda with you from which you made these reports?
Q. I have not. I have them at home.
Q. If the copies transmitted by you to the plaintiffs can be found, are you willing that they may produce those originals?
A. As far as anything I know I think they can. I have not seen them for some time.

Q. Now, you say in answer to a question addressed to 373
you on the examination in chief that at the time you went over these lands in township 57, you thought the descriptions on the north side of the lake were larger than they should be.
A. Yes, I thought they were large lots, which we often find in government surveys.
Q. They were particularly large lots, were they not?
A. I don't know that they were larger than some I have found in government surveys.
Q. Well, what made you think they were large lots, Mr. Eveleth?
A. Well, the distance from the lake to the town line. 374
The lots run to the town line from the lake with the exception of lot 8.
Q. Well, you had heard, hadn't you, that there were pretty large lots out there?
A. No, I didn't hear any such thing. If I had, I wouldn't have spent half a day looking up lines. I supposed the survey was perfectly correct.
Q. Did you find any squatters or persons on there when you went there?
A. No.
Q. Who went with you there, Mr. Eveleth?
A. My brother as one, Mr. Palmer was one; I don't re-
member his first name; the last I heard of him, I think, he 375
was out in Oregon or California. My brother's name is Julius and he lives in Corunna, Mich. I had an Indian with me, I guess I had a couple of them with me.
Q. How long were you up there?
A. About 10 days at that time, in the 2 townships.
Q. At the time you ran the line south of the lake, how long were you there?
A. At the same time; that is the first time we were there, the time we made estimates on section 10.

Q. Did you make estimates on sections 9, 10 and 11 the first time?

A. No, I think just section 10.

Q. That was the Graff & Little purchase on section 10?

A. Yes.

Q. You found an absence of government survey?

A. Yes. I didn't find the government survey.

Q. How long were you there that time?

A. Well, that time about 10 days.

Q. When did you run lines in reference to that on the
376 balance of the lands in 9, 10 and 11, and 2, 3 and 4?

A. Yes.

Q. What land did you run the first time you were there?

A. We ran lands in section 2, section 3, and section 4, and sections 9 and 10. Those were the lands we ran out the first time we were there.

Q. When, with reference to the time you ran those lands, did you run the remainder of the lands in Town 57 for these plaintiffs?

A. I did it some time during that season. I wouldn't say whether it was in June or in the fall. I don't remember at what time they purchased those lands but it was
377 some time that season. These are the Graff & Little purchases. The other time I was there I think was in June and September.

Q. Well, Graff & Little's was along in the spring of 1883?

A. Yes, in March, 1883.

Q. Were you not there in 1882?

A. No, sir, I was not.

Q. How long after you made this estimate before the deal was closed?

A. I think it was some 30 days.

Q. How long after that before you went back and made
378 the examination of the remainder of the lands which the plaintiffs bought in Town 57?

A. I think it was from 2 to 5 months.

Q. You knew, when you went back the second time, Mr. Eveleth, that you wouldn't find any marks of the government survey, didn't you?

A. I didn't expect to find any around the lake when we couldn't find them at that time.

Q. What did you conclude from the fact that you did not find any section corners or quarter post or any other marks in the interior of Township 57, when you were there

making estimates, with reference to whether or not the survey was ever made?

A. I concluded the government was not very strict in making their acceptance of surveys.

Q. Well, doesn't all this evidence show to you that no actual survey had been made?

A. It would show me that corners had not been established; I could not say about surveys.

Q. Did you see evidence of lines running through the woods?

A. Yes, but I think they were made by the people settling the lands. These lines were south of the lake, I didn't see any north of the lake, but there was no necessity for that on account of the town line, because they had no reason to subdivide the lands. 379

Q. Well, if a government survey had been made, there would be?

A. They would go into the lake there quite a ways.

Q. You looked for quarter post along that section line north and south between section 4?

A. Yes—well, there was no line established; we looked where we thought a line should be and didn't find them, nor any markings north of the lake except section corners on the town line. 380

Q. What proportion of the timber on these lands in township 57 north of the lake was pine and what proportion was other timber that you did not estimate?

A. Well, I think that the pine was about 2-3 of the timber in area of the land.

Q. About what proportion would it be below on section 10?

A. I think that was about 3-4, pretty heavy timber.

Q. Can you tell about how many thousand feet per acre you estimated the pine on the land north of the lake to run?

A. I think so; about 8 to 10 thousand feet to the acre; I would not say positively. 381

Q. What is the usual amount of pine per acre where it is about the same class and character as that which you found upon this land?

A. From 8 to 10 thousand to the acre.

Q. The reports and communications which you made to the plaintiffs in this suit, or to any one of them, respecting this land, prior to, and at the time of, the purchase, were in writing, were they not?

A. Yes, sir.

And upon Re-Direct Examination by Mr.Fred A. Robinson, said witness testified as follows:

Q. You stated there was no acreage marked on the government plat of these towns that you had?

A. There was no acreage marked.

Q. When you applied, as a usual thing, to the land office for government plats, did you request them to include acreage?

A. I don't think that I did. Not as a rule.

Q. Why did you omit information relative to acreage?

382 A. They didn't put them on the plats.

Q. Was the acreage of any consequence to you? Was it land or timber that you were looking after.

A. It was timber.

Q. Was it for that reason that you omitted asking for acreage?

A. Yes, for one reason. I don't think I ever asked for acreage, unless it is some piece that I am particular to make a survey on.

Q. Were the corners, of the lots, quarter posts and meanders you found at and in the vicinity of this lake sufficient to establish the lots to your satisfaction?

383 A. Why yes, for my purposes they were, and by my having the plat.

Q. Did the fact that these lots were large enter into the conclusion in your recommending the purchase of this timebr.

A. It did not.

Q. In making your estimates, did you estimate closely each separate description by itself before recommending this purchase?

A. Yes, we intended to do that.

Q. When you stated that the land about the lake that you estimated, included in the purchase, contained from 8 to

384 10 thousand feet to the acre, did you mean all the land or that merely on sections 3 and 4?

A. I meant that on 3 and 4 and that on 9 and 10, that came from the Graff & Little people.

Q. In your judgement what proportion of all the excess land all around the lake contained pine timber?

A. I should think about 1-2 of the excess contained timber.

Q. Of that 1-2 what would the average be per acre?

A. It would be about 5,000 to the acre.

Adjourned to 2 o'clock P. M. of said day.

Taking of testimony was resumed at 2 o'clock P. M. of said twenty-seventh day of December, 1898.

Mr. Erwin Eveleth recalled and further cross-examined by Mr. Evans, testified as follows:

Q. Mr. Eveleth, I understood you to say that you obtained the copy of the government plat, which you used in making the examination of this land, from the land office at Duluth? 385

A. Yes, sir.

Q. What office?

A. The Register of the Land Office at Duluth.

Q. Do you remember who was Register at that time?

A. Mr. Cary of Duluth, J. M. I think.

Q. Judge Cary.

A. Yes.

Q. In examining the lands south of Cedar Island Lake in section 9, 10 and 11, you stated this morning that you found the lines in the same way as you did those north of the lake; did you run to the lake itself from the south boundaries of these various lots that you examined south of the lake? 386

A. Yes, sir.

Q. Can you recollect how far it was from the south line of lots 3 and 4 in section 9 to the actual boundary of the lake?

A. I cannot tell exactly, it was 15 years ago nearly, and I could not tell exactly what it was.

Q. It was quite a distance, wasn't it?

A. It was quite a long distance.

Q. Was it as much as a half a mile, or more? 387

A. I should not think it was. I could not say positively. We thought they were fair sized lots—some we thought were small.

Q. It was still further, wasn't it, in lot 2 of section 10?

A. I think it was, yes.

Q. It was about a mile to the lake from the south boundary of lot 2?

A. I couldn't tell. I shouldn't think it was quite as far as that. You can't tell exactly.

Q. It was in the neighborhood of a mile, wasn't it?

A. I could not tell whether it was a mile or half a mile now.

Q. You sent in, as I understand, a specific, statistical report o feach of these lots by specific descriptions.

A. Yes, I think that was the way I sent it in to them. I don't know whether they had the report fully before the purchase was made or not.

---

388 TEMPLE E. DORR, a witness produced on behalf of said complainant, being first duly sworn to tell the truth, the whole truth, and nothing but the truth, upon oral interrogatories propounded to him by Fred A. Robinson, solicitor for complainants, testified as follows:

Q. State your name, age, address and occupation?

A. Temple E. Dorr; 58 years old; lumberman; East Saginaw, Michigan.

Q. You own an interest in the lands purchased conjointly with Mr. Murphy by Messrs. Robinson & Flinn, do you not?

A. Yes.

389 Q. All the lands which they own with Mr. Murphy in Minnesota?

A. Yes, sir.

Q. What is that interest?

A. An undivided 1-6 interest.

Q. When did you purchase that interest of Mr. Murphy?

A. In 1890.

Q. You paid him for that interest the amount he had paid, with interest and taxes added, did you not?

A. Yes, sir.

Q. At the time of the purchase by you did you know any thing whatever of any fraud or irregularity in connection with the survey of this land?

390 A. No, sir.

Q. Did you know that there was any excess in the descriptions of land purchased by you around Cedar Island Lake?

A. Yes, sir.

Q. What had you in mind in making this purchase, what was the basis of the purchase.

A. It was for an investment.

Q. What particular value?

A. Nothing more than the timber, that is all.

Q. When did you first hear of any alleged fraud or inaccuracy in the survey about Cedar Island Lake?
A. The first I knew about it was when the squatters went there.
Q. You have been on these lands?
A. Yes, sir.

And upon Cross-Examination by Mr. Robert G. Evans, said witness testified as follows:

Q. Did you have an estimate made, Mr. Dorr, before you purchased? 391
A. All I went by was Mr. Murphy's estimate. I didn't.
Q. You took the estimate as sent in by Mr. Eveleth?
A. Yes, sir.
Q. Did you have a copy of that estimate?
A. Yes.
Q. Do you have it now?
A. Yes.
Q. With you.
A. No, sir.
Q. Did that estimate show in detail specifically the government lots and the amount of timber on each?
A. I think so.
Q. You have that now at your home, do you? 392
A. Yes.
Q. You haven't been on the land and examined it since, have you?
A. Only just to travel through it, not to make an examination of it, to pace it out or anything of that kind.
Q. For the purpose of examining the pine or timber?
A. Yes.
Q. What is the quality of the timber?
A. Quite fair quality of timber for that kind.
Q. A large proportion of it is white pine, is it not?
A. Yes, a larger proportion than Norway.
Q. How much would it run to the acre? 393
A. I never went to look at it in that way.
Q. It is a fair average stand of timber, isn't it?
A. I should think so.

MR. GEORGE O. ROBINSON, being recalled and further Cross-Examined by Mr. Robert G. Evans, testified as follows:

Q. Did you find the report made to you by Mr. Eveleth of the estimate which he made when examining these

lands prior to your purchase, and which I asked you to look for this morning?

A. Do you mean the estimate prior, or the report prior?

Q. The estimate.

A. Yes, I found these estimates.

Q. From these estimates can you tell me how much was estimated to be on lot 4 of section 10?

A. 100,000.

Q. On lot 3 of section 10?

A. 750,000.

394 Q. Lot 1 of section 10, according to the government plat?

A. 1,200,000.

Q. Lot 2 of section 10?

A. 1,000,000.

Q. Lot 4 of section 9?

A. 1,425,000.

Q. Lot 3 of section 9?

A. 350,000.

Q. Lot 2 of section 9?

A. 200,000.

Q. Lot 1 of section 9?

A. 400,000.

395 Q. Lots 1, 2 and 3 of section 2?

A. 150,000.

Q. Lot 1 of section 3?

A. 1,300,000.

Q. Lot 2 of section 3?

A. 2,000,000.

Q. Lot 1 of section 4?

A. 1,000,000.

We have these lots designated on our book as follows:

Lot 1 of section 3, T. 57 N. R. 17 W. as N. E. fl. ¼ of N. W. fl. ¼. Lot 2 of section 3, T. 57 N. R. 17 W. as W. fl. ½ of W.
396 fl. ½. Lot 1 of section 4, T. 57 N. R. 17 W. as E. fl. ½ of E. fl. ½. Lot 8 of section 4, T. 57 N. R. 17 W. as S. W. fl. ¼ of N. E. fl. ¼. Lot 1 of section 9, T. 57 N. R. 17 W. as N. W. fl. ¼ of N. W. fl. Lots 2 of section 9, T. 57 N. R. 17 W. as S. E. fl. ¼ of N. W. fl. ¼. Lot 3 of section 9, T. 57 N. R. 17 W. as N. W. fl. ¼ of S. E. fl. ¼. Lot 4 of section 10, T. 57 N. R. 17 W. as S. E. fl. ¼ of N. E. fl. ¼. Lot 1 of section 10, T. 57, N. R. 17 W. as N. E. fl. ¼ of N. W. fl. ¼. Lot 2 of section 10, T. 57 N. R. 17 W. as W. fl. ½ of N. W. fl. ¼. Lot 3 of section 10, T. 57 N. R. 17 W. as S. W. ¼ of N. E. fl.

¼. Lot 4 of section 10, T. 57 N. R. 17 W as S. E. ¼ of N. E. fl. ¼

And upon Re-Direct Examination by Mr. Fred A. Robinson said witness testified as follows:

Q. Were these statistical reports received by you prior to the closing of the purchase on the option you then held?

A. According to my recollection they were received subsequent to the purchase of the Graff & Little lands. 397

Q. On what did you rely on making the purchase of the Graff & Little tract?

A. On Mr. Eveleth's telegrams, which in brief stated the gross quantity of pine estimated on the entire Graff & Little tract, amounting to 43,000,000 million feet of good pine, which he thought was as good timber as we could get.

Q. Have you answered on cross-examination that the evidence showed an inefficient survey, if any, what real evidence have you that the survey is irregular?

A. Hearsay evidence, and in looking over the maps of re-surveys lately reported to have been made.

Q. What evidence have you that the survey was fraudu- 398 lent?

A. I have none whatever of any fraud in the original survey.

Q. In the tabulated statements of the woodsman's notes referred to in the cross-examination, is there any reference made to acreage?

A. There is not; our policy was to buy timber and not acres. We made no special count of the exact acreage.

And upon Re-Cross Examination by Mr. Robert G. Evans said witness testified as follows:

Q. Mr. Robinson, do you know when you did receive those reports from Mr. Eveleth?

A. I don't recollect the exact date, but to the best of my 399 recollection we received them after we had concluded the purchase of these lands.

Q. You received them before you made the purchase of the Nelson and Scott Griswold lands south of the lake, did you not?

A. I have no positive recollection of it, but I presume that we did.

Q. You say that you think that your information was obtained from telegrams sent by Mr. Eveleth to you after

his investigation of the lands; have you the telegrams received and which you referred to?

A. These are the telegrams. (Showing telegrams).

Q. Will you please read them to the notary and have them incorporated in your deposition?

A. (Witness reads telegrams as follows:)

Duluth, March 30th, 1883.

To Robinson & Flinn,

400 The Graff & Little tract will cut forty-three millions good pine and is the best trade that can be made up here. What will I tell them. The other tracts are not good.

ERWIN EVELETH.

Duluth, Minn., March 31, 1883.

To Robinson & Flinn,

Location good. Best pine I have seen up here. If you want timber, take this. There are other parties waiting for it. It is very cheap lands at the price.

ERWIN EVELTH.

401 Duluth, Minn., April 1, 1883.

To Robinson & Flinn,

Parties do not want to give extension as there are others that stand ready to pay cash without looking soon as our time is up and as we have 10 days after acceptance to close in. Can you not make it out. I think that if we were to pay some money so that they were satisfied they would give me time to go down and show you estimates which are forty-three million white pine 10 per cent uppers. Don't fail as it is the best trade we will be able to make here.

402 Answer.

ERWIN EVELTH.

I hereby certify, that the taking of the above deposition was by agreement of the counsel for the respective parties adjourned from the twenty-second day of December, A. D. 1898, at 10 o'clock A. M., to the twenty-seventh day of December, at 10 o'clock A. M., and that on said twenty-seventh day of December, A. D. 1898, the said witnesses were produced before me at my office, Room 43 Moffat Building, south-west corner of Fort and Griswold streets in the city

of Detroit, State of Michigan, and having been by me first duly sworn to tell the truth, the whole truth and nothing but the truth, were examined orally upon questions propounded to them by the solicitors for the respective parties, and that the said questions and answers of said witnesses thereto, were pursuant to stipulation of the counsel for the respective parties, taken down stenographically in my presence, and were afterwards written out by the stenographer so taking the same.

I further certify, that all objections to questions propounded to witnesses, and the answers thereto, other than as to the form of the questions, were, by agreement between the counsel for the respective parties, reserved, and may be made on the reading of this deposition at the hearing of said cause as fully, and with the same effect, as though made at the time and noted by me. 403

And I further certify, that the signatures by the respective witnesses to their respective depositions were waived by the solicitors for both parties.

I further certify, that the said depositions were taken pursuant to the notice hereto attached, marked Exhibit "A." 404

In witness whereof, I have hereunto set my hand and official seal at the city of Detroit in the County of Wayne, State of Michigan, this Fourth day of January, in the year of our Lord one thousand eight hundred and ninety-nine.

ROBERT M. CHAMBERLAIN,
Notary Public, Wayne County, Michigan

(Notarial Seal.)

Notary's fees, ...	$ .30
Oaths	.30
108 folios at 20c.....	21.60
Copy	10.80
Postage	.16
	$32.86

405

Exhibit A.

United States Circuit Court
~~State of Minnesota, Fifth Division~~, District of Minnesota, Fifth Division
In Equity.

Simon J. Murphy, George O. Robinson, Elisha H. Flinn and Temple E. Dorr, Complainants,

vs.

P. H. Kirwan, as United States Surveyor General for the District of Minnesota, and Thomas H. Croswell, Defendants.

To ROBERT G. EVANS.

406 United States District Attorney for the District of Minnesota, and Solicitor for the Defendants above named.

Sir: You will please take notice that the depositions of Erwin Eveleth; George O. Robinson and Temple E. Dorr, witnesses for the complainants in the above entitled action, will be taken before Robert M. Chamberlain, a notary public, duly authorized by the laws of the State of Michigan to administer oaths therein, at his office at No. 43 Moffatt Building, south-west corner of Fort and Griswold streets in the City of Detroit, State of Michigan, on the 22nd day of December, A. D. 1898, at ten o'clock in the forenoon of that
407 day, and that said examination will be adjourned from day to day until the same is concluded; said deposition to be used upon the hearing of said action, and is taken pursuant to a stipulation entered into by the parties hereto.

Dated at Duluth, Minn., this 9th day of December, A. D. 1898.

M. H. STANFORD,
Solicitor for Complainants,
800 & 801 Torrey Bldg., Duluth, Minn.

Indorsed: Received and filed January 7 1899.

408 HENRY D. LANG, Clerk.

By Thos. H. Pressnell, Deputy.

United States of America.

Circuit Court of the United States for the District of Minnesota, Fifth Division, in Equity.

Simon J. Murphy, George O. Robinson, Elisha H. Flinn and Temple E. Dorr, Complainants,

vs.

P. H. Kirwan, as United States Surveyor General for the District of Minnesota, and Thomas H. Croswell, Defendants.

Depositions of witnesses taken before Harry H. Lamont, a notary public in and for the County of St. Louis and State 409
of Minnesota, at his office, room 800 Torrey building, in the City of Duluth, in said County of St. Louis, on the eleventh day of January, A. D. 1899, at 10 o'clock in the forenoon of that day, for use on the hearing of the above entitled cause on the part of the complainants, pursuant to the notice hereto annexed.

On the said eleventh day of January, A. D. 1899, the said complainants appeared by their solicitors, M. H. Stanford, and the said defendants by Robert G. Evans, United States District Attorney for the District of Minnesota, at 10 o'clock A. M. of said day, at the said place. It was agreed between the counsel for the respective parties that all objections to 410
questions propounded to witnesses, and the answers thereto, other than as to the form of the questions, are reserved and may be made on the reading of this deposition at the hearing of said cause as fully, and with the same effect, as though made at the time and noted by the officer taking the deposition, except as to documentary evidence. As to that, all objections to its authentication or identification must be made at the time it is offered. It is stipulated and agreed by the solicitors for the respective parties that the testimony of the witnesses may be taken down by stenographer in short-hand and afterwards written out by him, and that the signatures of the several witnesses to their respective depositions are hereby waived. 411

PHILIP M. GRAFF, a witness produced on behalf of said complainants, being first duly sworn to tell the truth, the whole truth and nothing but the truth, upon oral interrogatories propounded to him by M. H. Stanford, solicitor for complainants, testified as follows:

Q. I will ask you where you reside, Mr. Graff?

A. Well, you might say that I reside here in Duluth, altho' I have a homestead.

Q. How long have you resided in St. Louis County, Minnesota?

A. I came here in 1879 or 1880 and have been more or less a resident here ever since, as I said before, I have a homestead.

Q. Do you know Mr. Simon J. Murphy; Mr. George O. Robinson; Mr. Elisha H. Flinn and Mr. Temple E. Dorr?

A. I am well acquainted with Mr. Murphy; Mr. Dorr and Mr. Robinson, I don't know as I know them so very well.

412 Q. That is Mr. Dorr of Saginaw?

A. Yes, sir.

Q. How long have you known Mr. Murphy?

A. I have known him best of all, I met him in 1882 I think.

Q. What transactions, if any, did you have with Mr. Murphy in 1882?

A. I sold him quite a lot of timber in St. Louis County.

Q. Did you sell him anything else besides timber?

A. No, sir.

Q. I guess you don't exactly understand what I mean; did you sell him any timber lands?

413 A. We sold him some timber, some lands with timber on, we always figure timber lands by the estimate.

Q. Do you ~~know~~ remember where the lands were located, can you give a description of them?

A. I don't know as I could locate them specifically; they were in St. Louis County; the deed was made, I think, in the spring of 1883, that is the only transaction that we had with Mr. Murphy, Mr. Simon J. Murphy.

Q. Those were the only lands that you ever conveyed to him?

A. Yes sir.

Q. Who united in this conveyance with you?

414 A. Mr. Little and wife and my wife and brother.

Q. Do you know the location of that land with relation to Ely Lake; do you know if any of it bordered on the lake?

A. Yes, sir, because we figured on that relation with regard to banking logs.

Q. Who did you buy that land of?

(Question withdrawn.)

Q. What was the basis of your sale of this land around Ely Lake that you sold to Simon J. Murphy in 1883; what was the basis of the purchase; what was the consideration?

A. The basis of purchase was on the estimate of timber, it was sold on estimate.

Q. As to this, were the lots bordering on Lake according to the Government plat?

A. We sold them as we received them, according to the government plat.

Q. What was the limits of estimate on each parcel as to this boundary?

A. The timber was estimated on the boundary as given by the government plat.

Q. As running to the actual waters of the lake? 415

A. Yes, sir.

Q. At the time you sold this land to Simon J. Murphy, had you ever heard of any irregularity or fraud in the surveying of the land in that township?

A. No, sir, I never heard of anything of that kind.

Q. When did you first hear of anything of that character?

A. When suit was commenced with the settlers, what I read about it in the papers of the settlers going in trying to set aside the survey and have it re-surveyed.

Q. How long ago was that?

A. Oh, that was—I don't remember the exact date; I 416
had no reason to mark the date; it was a few years ago, not over two or three I suppose.

Q. What personal examination did you make as to this title?

A. We had it looked up to see that there was a patent from the government or that they had filed.

Q. What as to the boundaries of the land?

A. We went by the government survey.

Q. Or the plat?

A. The survey and the plat.

Q. State whether or not you made a personal examination of the plat in the land office?

A. Yes, sir, I did. 417

And upon Cross-Examination by Mr. Robert G. Evans, said witness testified as follows:

Q. Who was connected with you, Mr. Graff, in making that purchase?

A. Graff, Little & Company.

Q. Who comprised that firm?

Q. At that time E. D. Graff, Daniel E. Little and myself, afterwards there were changes in the firm.

Q. What business were you in?

A. In the lumbering business.
Q. Buying pine lands and lumbering?
A. Yes, and selling timber lands.
Q. You bought from the estimates you say?
A. Yes, sir; you know the value of the land was in the estimate of the timber, that was the way about all the lands were bought.
Q. You had estimates before you bought?
A. Yes, sir.
Q. You had estimates of this particular land?
418 A. Yes, sir.
Q. Who did you have the estimates made by?
A. By C. B. Chandler.
Q. He was an expert cruiser or woodsman?
A. Yes, sir; he was—Well he was an estimator.
Q. He would go on lands and run lines and make estimate of the timber?
A. I don't know that he would run lines.
Q. Mr. Chandler surveyed for you in making this purchase?
A. Yes, sir, he made an estimate.
Q. Did he go on the land?
A. Yes, sir.
419 Q. Did he make an estimate of each tract?
A. Yes, sir.
Q. Did he take the government plat with him?
A. Yes, sir.
Q. His duty and business, in making this estimate, was to go over the identical lands covered by the plat that you intended to purchase, that was his duty?
A. Yes, sir.
A. ~~No, he was not a surveyor, he was an estimator~~.
Q. Was he a surveyor himself?
A. No, he was not a surveyor, he was an estimator.
Q. Would he take a surveyor with him?
420 A. I don't know if he did, he generally took a man with him.
Q. Was he able to find corners and run lines himself; was it not necessary for him to be able to find the corners?
A. Yes, unless he took a man with him.
Q. He either had to have a surveyor with him or run lines himself?
A. I suppose so. He was a brother in law of Mr. Little.
Q. Most generally he had some one with him.
A. I can't say exactly. I guess he had some one.

Q. Did he discover by making examination of the lands its condition, points of survey &c.?

A. Yes, sir.

Q. After Mr. Chandler made an examination of the lands and made an estimate I suppose he reported the result of the examination to you?

A. He reported the amount of timber on the land and its proximity to the water.

Q. Would he report that separately and specifically as to each tract?

A. Yes, sir. 421

Q. Would he take each general subdivision that was on the plat and report what he found in that subdivision?

A. Yes, sir.

Q. Were these reports in writing?

A. Each report was sent in, yes, sir.

Q. Did he have a plat book?

A. Yes, sir, he would mark in there the description of the pine and tell how much timber there was, how much pine, how much Norway, in that way he would make ~~an~~ the estimate.

Q. I suppose, in making this sale, you compared the estimates of timber as reported to you by Mr. Chandler in each specific with the estimate made by Mr. Eveleth, who 422 made the former report?

A. I never saw Mr. Eveleth's estimate; he made an estimate, he agreed to purchase; we figured on the estimate here knowing Mr. Chandler had made the estimate low we figured a little higher than his estimate and they confirmed the estimate.

Q. You sold in that way?

A. Yes, sir.

Q. Have you the reports made by Mr. Chandler?

A. Everything of that kind the firm has gone out of business and I have never thought of the matter since until Mr. Stanford spoke to me.

Q. You bought largely of homesteaders? 423

A. Yes of homesteaders and through Mr. Brandenburg and some we bought as offered land, included in this transfer.

Q. Did you ever have any experience yourself in estimating lands?

A. Yes, sir.

Q. In order to make a correct estimate when you go upon a tract or tracts of land it is necessary for you to find the section and other corners and run off the lines which

make the division you estimate, or do you get them in some other way?

A. You have got to have your corners in order to do any work; then you can run your lines to the corner or to the water's edge as the plat would show.

Q. Suppose it didn't show any interior marking at all, what would you do then?

A. You have got to get a line from some place and start and pace out until you get to a corner to start from, that is the customary way of doing.

424 Q. I think that you stated that Mr. Chandler was a brother-in-law of your partner?

A. Yes, sir.

Upon reading the foregoing testimony to the witness, Philip M. Graff, by me, the said Notary Public, the said witness wished to make the following explanations:

Question on fourth line from bottom of page 2 of Transcript, reading as follows:

Q. Do you know Mr. Simon J. Murphy; Mr. George O. Robinson; Mr. Elisha H. Flinn and Mr. Temple E. Dorr?

Witness desires to make his answer as follows:

425 A. I am well acquainted with Mr. Murphy, Mr. Dorr and Mr. Robinson, I don't know as I know Mr. Flinn at all.

On last line of page 4 to read as follows:

A. When suit was commenced by the settlers, that I read

Seventh line from bottom of page 6 witness undertsood the question to read as follows:

Q. Mr. Chandlers estimated for you in making this purchase?

Eighth line from bottom of page 7 to the question:

Q. Did he discover by making examination of the lands its condition, points of survey &c.?

426 Witness wishes the answer to read (as he did not understand the question then propounded):

A. As to its actual condition, he made no report of any irregularity in the survey; he reported its proximity to the lake and the amount of timber on it, quality &c."

Second line from bottom of 8th page witness wishes answer to read as follows:

A. "Everything of that kind has been destroyed the firm has gone out of business and I have never thought of the matter since until Mr. Stanford spoke to me."

MERRITT S. COOK, a witness produced on behalf of said complainants, being first duly sworn to tell the truth, the whole truth and nothing but the truth, upon oral interrogatories propounded to him by M. H. Stanford, solicitor for complainants, testified as follows:

Q. Mr. Cook you have given us your full name?
A. Yes, sir.
Q. Where do you reside?
A. In Duluth.
Q. What business are you engaged in?
A. Surveyor and civil engineer. 427
Q. How long have you been engaged in that business?
A. About thirty years.
Q. About thirty years?
A. Yes, sir.
Q. What exeperience, if any, have you had in finding lost section corners and in surveying in territory where the survey is defective?
A. I have had considerable experience. In Michigan and in this state.
Q. Have you held any official position in this state, either federal or state?
A. Deputy United States Surveyor. 428
Q. How long have you been such in this state?
A. Five years, I guess.
Q. State whether or not you are acquainted with any portion of Township 57-17 West, in this County?
A. Yes, sir, I have been there.
Q. And you know Ely Lake?
A. Yes, sir.
Q. Whereabouts is Ely Lake situated in that Township?
A. In the Northern part.

BY MR. ROBERT G. EVANS.

Q. By Ely Lake you mean Cedar Island Lake?
A. Yes, sir. 429

DIRECT EXAMINATION RESUMED BY MR. STANFORD.

Paper handed to the witness by Mr. Stanford, which is marked by the reporter Complainants' Exhibit "A."

Q. I want you to examine that and state whether or not you ever saw it before?
A. Yes, sir.
Q. What is it?

A. It is supposed to be a map of that township.

Q. Who made it?

A. I made it.

Q. State the circumstances under which you made that plat?

A. I made this map at your, Mr. Stanford's request about two years ago.

Q. State whether or not you made a map which has been used in this case?

A. I did, yes sir, one used in this case.

430 Q. Attached to the original bill of complaint in this action?

A. Yes, sir.

Q. This map here, what relation does it bear to the one that you made at that time?

A. It is the same, not that particular one.

Q. Not this particular one?

A. No, but it is the same map, a copy of it. I made duplicates of it, there were three supposed to be all alike.

Q. Then that is intended to be a copy, it was made at the same time as the map which is attached to the bill of complaint in this action?

431 A. Yes, sir.

Q. You knew that at that time they were substantially copies?

A. Yes, sir.

Q. You may state whether or not the location of Ely Lake is delineated on that map, Exhibit "A" correctly? State hether or ot that is a correct delieation of the location of the actual waters of Ely Lake as you know it?

A. Yes, sir, that is correct as near as I could make it according to the knowledge I had.

Q. State waht knowledge you had when you made that survey?

A. At that time I had surveyed the South west arm of
432 the water, that is what you mean by the lake, and since that I have surveyed some more of the west boundaries of the lake substantially the same as shown in this map.

Q. State what methods and plans you pursued in making this map?

A. In making this map of the town. I referred to the notes of the Patton survey made in 1893.

Q. State whether that is the only county survey that has ever been made of this township?

A. I think it is.

Q. Go on and state all the information you had at hand at that time and the methods you pursued in drafting this plat?

A. I made part of the township, that is of the boundaries, from Patton's notes and the interior lines I computed and laid down on the map in accordance with the old survey notes and plat.

Q. The old survey, what do you mean by that?

A. The United tEates Survey notes, except that the meander line was made according to the old survey.

Q. When you speak of the meander line, what do you 433
mean by that?

A. That is according to the old survey.

Q. The old Government survey?

A. Yes, but the water, the lake that is put in from personal information and what I got from other maps.

Q. In laying out the actual waters of the lake on the plat how are you able to say that you laid it out correctly on the plat?

A. I surveyed from the North boundary and reached the nearest section corner, 4, 5, 8 and 9 and triangulated the south west arm of the lake and made some other surveys and the east part of the lake I copied from the best maps I 434
could procure with regard to the location of the waters.

Q. In saying that you start from the section corner of 4, 5, 8 and 9, what section corner do you refer to, the section corner established by whom?

A. Established by the Patton survey, the survey ordered by the County when Patton was County Surveyor.

Q. Will you state what measurements you made besides those you have already stated, if any?

A. I surveyed the county road two different times; ran a line down to the lake and triangulated and measured up and got a map of the south west arm of the lake. The next year I re-surveyed the road and made some other measurements to the lake around the south part, located St. Mary's 435
Lake.

Q. Where is the county road located on that map?

A. There is one county road on a part of the northern boundary.

Q. Of the township?

A. Yes, the township; and then there is a county road from the northern quarter post of 5 and runs south east through section 5 and 9 into section 16 around the head of the lake, the south west shore of the lake.

Q. You may state Mr. Cook which is the North boundary of the township on that plat?

A. It is a dark line, that heavy line (indicating on map).

Q. What is that red line?

A. That represents the random line run by the County Surveyor when they re-surveyed the township.

Q. Where, on that plat, is the south east corner of section five, as established by the county survey?

A. It is the intersection of the dark lines, the south side of five, the line between four and five, the intersection of the
436 dark lines (indicating on paper).

BY MR. ROBERT G. EVANS.

Q. The solid lines?

A. Yes, sir.

DIRECT EXAMINATION RESUMED BY MR. STANFORD.

Paper marked Complainants' Exhibit "B" offered in evidence and handed to witness to examine. (See page 71)

Q. Please examine that Mr. Cook. I ask you if that represents correctly the location of sections 2, 3, 4, 9, 10 and
437 11, township 57-17?

A. Well, I don't think it does.

Q. In what respect is it not correct?

A. In the first place the map of the four sections is straight and regular as it would be on ~~any~~ a general plan or any plat of any township in the state, it is just the plan that don't represent the actual sections where they are.

Q. Why is it otherwise not correct?

A. Well, the lake is too for north and too far east.

Q. What is the difference in the methods pursued in delineating the lake and the section corners in Complainants' Exhibit "A" and this paper, Exhibit "B" which you
438 have in your hand?

A. Well, the map, Exhibit "A" is made from actual survey from the actual and interior section corners so far as they are established. Exhibit "B" is an imaginary line I should say without any regard to actual location.

Q. How are the interior corners in Exhibit "A," how are they located, on what plan?

A. The nearest corner 4, 5, 8 and 9 in Exhibit "A" was located by the County Surveyor.

Q. In what manner?

A. They first surveyed around the Township and then

ran interior lines across the township and located corners by intersections of lines after correcting by proportionate distances each way.

Q. ~~What is there about the~~

Q. What is there about the— What is there in that territory, Township 57-17 which makes it different from a Township in which the sections are all square?

A. I never saw a case of that kind.

Q. You never saw a case of that kind, where they were square?

A. No, sir. 439

Q. What is there peculiar with reference to that Township 57-17, that is different from other Townships where the survey is substantially correct?

A. What makes this township more difficult to survey, in the first place is the irregular boundary, the North boundary being very irregular in courses and especially difficult because there are no interior corners set by the original survey except one.

Q. Where is that?

A. The North west of section thirty-six, which was established under the old survey. 440

Q. You say that the County Surveyor in making the survey first ran exterior lines of the Township and then subdivided the interior lines; what methods did he use in subdividing the interior sections, subdividing the Township into sections?

A. He established two section corners, 4, 5, 8 and 9 and 5, 6, 7 and 8. In order to do that he ran two interior lines across the Tonship from the corenr of 5 and 6 on the North boundary to the corner of 31 and 32 on the South boundary; also another line across the Township section 4 and 5 on the North boundary to the corner between 32 and 33 on the South boundary and then he ran another line from the corner of 6 and 7 on the West boundary to the corner between 1 and 12 on the East boundary and then from the field notes he corrected the intersections so as to make the different section lines correspond as nearly as possible with the old survey notes. 441

Q. What is the peculiarity of that Township in surveying the territory inclosed within its boundary that makes its lines so irregular in addition to the irregularity of the Northern boundary of the Township?

A. That is the worst—the East, South and West boundaries are quite regular.

Q. How about the distance between the North and South boundary of the Township?

A. The extreme distance North and South would be considerable overplus.

Q. What is done with that overplus in that plat Exhibit "A"?

A. It is divided proportionately according to the old survey.

442 Q. Between what?

A. Well, each section is supposed to be equal.

Q. Now, in this Exhibit?

A. The North and South lines through the fractional sections would vary according to the old plat.

Q. Take Exhibit "B," how—what method pursued would produce such a plat as that of the actual waters of Ely Lake?

A. I couldn't say; the lines all appear to be straight and regular and they probably were governed by some corner, some supposed corner, in locating the lake; I have an idea what it was but I can't tell for certain, just judge from
443 appearances.

Q. In making the survey with all surplus territory in the North tier of sections?

A. Yes, the section corner on the south side of the lake.

Q. Would that produce such a plat as that?

A. In that case it would be too far South and the distance from there to the lake would be too large and a plat on that plan would show the lake to be too far north.

Q. Showing the same area existing on that plat?

A. Yes, sir.

Q. How about the East and West measurements?

A. If the corners were too far West and they referred to them in making the plat of the lake it would show the
444 lake to be too far East.

Q. Cannot you say from your examination of the various field notes and your field notes the methods which were pursued by the party making that plat?

A. I think the lake was located with reference to a corner supposed to be the North east corner of section 16.

Q. How much out of the way is that corner of section 16? in that plat Exhibit "B"?

A. It is hard to tell.

Q. Well, approximately?

A. I know about what the variation is between the true corner and this which I suppose was used in locating the lake. I can't tell who made this map and I don't know what methods they took.

Q. Can you by an examination of that map state approximately how far East from the North west corner of Section 9, as designated on this plat?

A. That is compared with the map I should say about fifty rods.

Q. About fifty rods?

A. Yes, sir. 445

Q. Too far East?

A. Yes, as near as I could tell.

Q. How much too far North?

A. About the same distance.

And upon Cross-Examination by Mr. Robert G. Evans said witness testified as follows:

Q. Mr. Cook, did I understand you to say that you are now Deputy United States Surveyor?

A. Yes, sir.

Q. You hold a commission from the Surveyor General?

A. Yes, sir. 446

Q. Do you hold it at this time?

A. Yes, sir.

Q. When was it issued?

A. About five years ago.

Q. How long was it to continue?

A. I don't know.

Q. Have you done any work for the United States?

A. Yes, sir.

Q. When?

A. In 1893.

Q. Have you not done any since?

A. No, sir.

Q. As a matter of fact this commission is issued for a 447 specific job of work and expires when you get through with the work; you have none now?

A. My commission don't read that way.

Q. Have you got it with you?

A. No, sir.

Q. You got it from the Surveyor General of this State?

A. Yes, sir.

Q. Of the District?

A. Yes, sir, Compton.

Q. You have done no work since 1893?
Q. No, sir; not for the Federal Government.
Q. Do you know who made this plat Exhibit "B"?
A. No, sir.
Q. How are the actual boundaries of the lake designated on Complainants' Exhibit "A," on the map by you?
A. The lake itself?
Q. Yes, how is it designated?
A. By irregular red lines.
Q. By irregular red lines?
448 A. Yes, sir.
Q. What do the dotted black lines outside mean—which are marked meander line?
A. That represents the meander line according to the old survey notes.
Q. According to the Howe survey?
A. Yes, sir.
Q. The red lines inside of it are the actual boundary of the lake as located by you?
A. Yes, sir.
Q. You say that you made this plat, Exhibit "A," by an actual survey and aided by the notes of Mr. Patton and such information as you could obtain from the government
449 plat?
A. Yes, sir.
Q. You found no interior marking of any description whatever as the result of the Government survey made by Howe? You found one corner in section 36?
A. I didn't find that myself, I had been told it was there.
Q. Oh then, on the South east corner you didn't find that yourself but you have been told it was there?
A. Yes, sir.
Q. Your testimony as to that is what you have heard from others?
450 A. Yes, sir.
Q. Did you find the corners on the North line of the Township between sections 3 and 4 and 5?
A. I have been on these corners.
Q. You have been there?
A. Yes, sir.
Q. Did you find those corners when you made this survey which is represented by Exhibit "A"?
A. I located them by the County Surveyor's notes.
Q. And subsequently you say your actual survey was made on the ground?

A. Yes, sir.
Q. So you had to have some data to run your lines?
A. Yes, sir.
Q. You got it from what?
A. The corner on the North boundary re-located by the County Surveyor.
Q. Did you run those lines South from the North corner to the corner of the South boundary of the Township?
A. I did not, no sir.
Q. You extended them on your plat?
A. Yes, sir. 451
Q. To the corner as established on the South boundary?
Q. That you got from field notes?
A. Yes, sir.
Q. Was it made before or after you made yours?
A. Before.
Q. How long before?
A. It was made in the spring of 1893.
Q. Mr. Cook did you find the section corners established on the East and West lines of Township 57?
A. The interior corners?
Q. Yes.
A. I have seen some of them. 452
Q. They are established?
A. Yes, sir.
Q. By the Patton survey?
A. I just observed them.
Q. Who made them?
A. Part were located by the old Howe survey.
Q. Were there any corners?
A. I found bearing trees standing.
Q. Did you find them?
A. I didn't look for any old bearing trees of the original survey because they were cut down in construction of the County road.
Q. Did you find any Government marks of any kind, 453 character or description on any of the interior lines of that Township?
A. No, sir.
Q. As far as appeared none ever had been placed there?
A. That is the supposition.
Q. You couldn't find any?
A. No, sir.
Q. You never saw any sign of any old survey?
A. No, sir.

Q. And can you tell the distances from the section corner as located by the Howe survey between sections 3 and 4? down to the actual boundary of the lake from your map, and in answering this question state what letter or figure on Exhibit "A" represents the section corner I have referred to on the Township line?

A. Letter "D."

Q. That represents it?

A. Yes, sir.

Q. Can you tell the distance from the letter "D" to the
454 actual boundary of the lake as located by you?

A. I can't tell exactly, but it is over a mile; counting the overplus it is probably twenty rods over a mile.

Q. Twenty rods over a mile?

A. Yes, sir, counting the overplus.

Q. How much is the overplus?

A. According to the survey it is about fourteen rods.

Q. About fourteen rods?

A. Yes, sir.

Q. Without the overplus it would be over a mile, without taking that into consideration at all?

A. The actual distance would be the same.

Q. You said it was about a mile and about twenty rods,
455 if that overplus did not exist it would be over a mile, wouldn't it?

A. I should say so.

Q. Can you state how many acres according to your plat, approximately, you find on what was known as Government lot 1, in section 4, according to the original Howe plat?

A. I can't tell.

Q. Can't you estimate from this plat, approximately?

A. Lot 1 to the meander boundary?

Q. No, to the actual lake?

A. It depends on the riparian boundary.

Q. But assuming that it ran to the actual lake?

456 A. It would be about 160 acres.

Q. It would be about 160 acres according to your plat, assuming that it ran to the actual waters of the lake?

A. Yes, counting eighty rods wide it would be 160 acres.

Q. Can you tell approximately how many acres there would be in lot 8, according to the Howe survey, assuming that the south boundary of that lot was the actual boundary of the lake?

A. Probably, if it went clear to the lake—it is designated as 27 acres.

Q. Yes, on the Howe plat it is designated as 27 acres, can you tell how many acres there would be?

A. Probably 140 acres, about that.

Q. Can you state the scale upon which this plat "A" is drawn?

A. I think—I don't remember.

Q. I don't think it shows on here?

Rule was handed to witness and he proceeded to ascertain the scale.

A. It is 40 chains to the inch, two inches to the mile.

Q. I will ask you, in running them as you did run them 457
on your plat, how many acres there would be?

A. That would be pretty hard to estimate.

Q. Would there be any material difference?

A. Oh, yes.

Q. Not many, would there?

A. Lot 1 run the way I have it would be about 140 acres.

Q. Lot 8 would be run about how much?

A. Lot 8 would be about 70 acres.

Q. Now, when you speak of it being less, the amount of land in each of these lots being less, the way you would run the lines, you mean the arbitrary division you made of the lines, you mean the arbitrary division you made of the 458
surplus land between the actual line of the lake and the meander line between the various lots and subdivisions outside of the meander line, do you not?

A. I mean the whole lot as marked on the plat, including the frontage.

Q. You made that as an arbitrary division, not as a rule of any government survey?

A. I can tell it is a rule used in subdividing.

Q. According to your idea of subdividing this riparian territory, what lines indicate the division you made in that way? abutting against the meander line of the lake as laid down in the Howe survey?

459

A. The dotted red lines converging towards the lake.

Q. These are the continuations of the side lines of the lots running from the North, East, West and South boundaries of the Town as you laid them?

A. Yes, sir.

Q. Now, let me direct your attention to lot 6 of the survey as originally made in section 6 and I will ask you to state how approximately you would find in that lot 6, if extended to the actual boundary of the lake—I meant lot 6 in section 4—suppose that lines extended straight to the

actual boundary of the lake, how many acres approximately —supposing the North and South boundary of lot 6 were extended to the lake, about how many acres would be in that lot?

A. It would extend across the other.

Q. Yes, I know that—suppose they were extended?

A. The North side of lot 6 and the south side of lot 6, if extended easterly to the actual water's edge would be a mile and a quarter across the frontage of the others.

Q. Nearly two hundred acres?

460 A. Yes, sir.

Q. Extended the way you extended to the lake by the dotted lines, how much would there be?

A. About seventy acres.

Q. Now, Mr. Cook, the same excess conforming to the actual boundaries of the lake would be the same if extended as I have said?

A. On the South side they would be shorter.

Q. What, less than the other way?

A. Yes.

Q. Now, in going to the lake with the extension lines of 1 and 8 in section 4 you would have to cross the actual di-
461 vision line or section line between sections 6 and 7, 5 and 8 and 4 and 9, is that right?

A. According to the old survey there would be no section lines.

Q. As a matter of fact in a survey made by you it would cross the section lines?

A. I would disregard the section lines.

Q. It would cross the section lines?

A. Yes, if the section lines were there.

Q. What does this letter "Y," on the west line of Town. 57, as shown in your plat, represent?

A. The section corner between 6 and 7 on the West boun-
ary.

462 Q. The section corner on the Township line between six and seven, you say?

A. Yes.

Q. That would be the North west corner of seven and the south west corner of six?

A. Yes, sir.

Q. The west corner of this (indicating).

A. Yes.

Q. What does the letter "H" on the East line of the Township reperesent?

A. The section corner between 1 and 12 on the East line of the Township.

Q. Suppose you draw a line from "Y" to "H" which would be the dividing line between the tiers of sections 1 to 6 and 7 to 12 would not the intersection of these lines that you run to the lake from lots 1 and 8 across that line.

A. What line do you refer to, section line or air line?

Q. Section line?

A. It would cross it on that part instead of the meander boundary. (Indicating.)

Q. You mean the old meander boundary? 463

A. Yes.

Q. That is the extension of the lines of the lots South or Southerly from the old meander line would cross the section line?

A. It would cross that line but would not clear that section line (indicating).

Q. Wouldn't it cross that line (indicating)?

A. Certainly, it would cross that imaginary line.

Q. It would cross the quarter and eighth lines of sections 4 and 3 would it not, if laid out?

A. If there was any line there it would.

Q. If surveyed as it should be there would be lines there, would there not? 464

A. I don't think there would.

Q. Don't you mark lines on the Government surveys?

A. We don't continue the old lines inside the meander lines, the old lines are not continued.

Q. But if they were continued as they should have been across the land they would have been marked on it?

A. If it had been a correct survey.

Q. If an accurate survey, the extended lines of lots 1 and 8 that I have been talking about would cross these quarter and eighth lines, would not they?

A. If the original survey was correct.

Q. And if a correct survey was now made it would be the case, would it not? 465

A. There would be two methods.

Q. Without regard to the conditions as they exist on account of the old survey but if a correct survey was made as it should have been made originally, if there never had been any survey made at all?

A. Under such conditions they would have to run to the lake and show the lake to be in its proper location.

Q. And these government lot lines would have to cross these quarter lines? (Indicating.)

A. In that case we would not have those lines.

Q. Do you have the field notes of the survey made by you?

A. Yes, sir.

Q. These field notes show the section corners on North, South, East and West of Township 57 and their location, do they?

A. Yes, sir.

Q. Do you have them here in the City?

A. They are the County Surveyor's notes.

466 Q. Did you go along the North line of the Township from "D" to "E" and "F"?

A. Not across it.

Q. There never was any corner or any mark on that line by the original Howe survey east of "D"?

A. I think all except the north side of section 3; not from "D" entierly to "E" from "D" down to the meander line.

Q. By the Howe survey. It was jumped?

Q. Do you mean by that line from "D" down to the meander line?

A. Yes, sir.

467 Q. From the examination you made of this, of that North boundary line, how would you say the line which is marked "M. C." on the North east boundary of the lake was established—that is this line from "D" to "M. C."?

A. That part was established by the County Surveyor.

Q. Was drawn as a straight line on the Howe plat?

A. East to the lake.

Q. I mean from "D" to "M. C."?

A. That was part of the county survey.

Q. That is an imaginary line he drew across there?

A. No, he drew it straight, but we never knew about that line until the county surveyor was in there.

Q. As platted on the plat made by Mr. Howe it was 468 simply a straight line, the plat made from the notes he turned in was made in a straight line.

A. Yes, sir.

Q. You spoke of a corner between 4 and 5 and 8 and 9 as being established by the Patton survey?

A. Yes, sir.

Q Did you accept it?

A. I always worked from it.

Q. Then you accepted it?

A. Yes, sir.

Q. It is represented in plat "A" by the intersection of the dark lines between the sections?
A. Yes, sir.
Q. You will note in Exhibit "A" a dark line from "D" to "Q" "D" on the northern line of the township and "Q" on the south line of the township, how was it established?
A. That line is computed from the Patton survey, the courses here and here and the distances here. (Indicating).
Q. This is the Nelson line? (designating on plat.)
A. The distance between those two letters.
Q. The distance between "D" and "Q"? 469
A. Was computed to the outside boundaries of the township.
Q. That was on data from field notes furnished by Patton?
A. Yes, sir.
BY MR. STANFORD.
Q. The Patton survey is really the county survey?
A. Yes, sir.

CROSS-EXAMINATION RESUMED.

Q. This Nelson survey marked on the dotted lines through the inside of the Township, that has nothing to do 470 with this plat?
A. I never used it at all, just looked at it.
Q. What was it.
A. It was run by surveyors in the employ of the Nelson Lumber Company some time ago and that survey I think was the basis for this other map.
BY MR. STANFORD.
(Q. What map was that?
A. Exhibit "B.")
Q. These red dotted lines which start out from each lot or subdivision point on the meander line as laid out in the government plat and converge towards the lake are the boundary lines of the lots as you think they should be? 471
A. Yes, sir.
Q. Is that true of all of them?
A. Yes, sir.
Q. Some of them do not give any lake frontage at all, is that so?
A. In making that map I had no reference to the water at all.
Complainants' Exhibit "E. 1," field notes and calculations of County Surveyor, offered in evidence.

Adjourned to 2:30 o'clock of said day.

Taking of testimony was resumed at 2:30 o'clock P. M. of said 11th day of January, 1899.

MR. MERRITT S. COOK, recalled and further Cross-Examination by Mr. Evans, testified as follows:

472 Q. By reference to Exhibit "A" I understand that you accepted the section corner between 4 and 5 and 8 and 9, as located by the Patton survey?

A. Yes, sir.

Q. Where did he also locate a corner between 3 and 4 and 9 and 10?

A. I don't think he located that. There were only two corners 5 and 6 and 7 and 8 and 4 and 5 and 8 and 9.

Q. He located two corners?

A. I think that is all.

Q. Well, did not his field notes locate the corner between 3 and 4 and 9 and 10?

473 A. Not directly the notes, you could compute the location from the notes.

Q. What do you mean, he put a monument there?

A. He put no monument there.

Q. In making this survey which is shown by plat "A" did you accept the corner as located by his field notes between 3 and 4 and 9 and 10, or did you go north of that?

A. He had no corner set; I just computed the distance from his field notes of the outside boundaries.

Q. You did not set your corner the same as he would have done if he had set a monument?

A. There might be a little differenec in measurement, should be about the same.

474 Q. I show you a plat, which I will ask to have marked Defendants' Exhibit "P", and ask you if you know what it is?

A. I see it is a plat of something.

Q. Do you know what that is, Mr. Cook; do you know what it is, is it made by Mr. Patton?

A. I don't think it was, it don't look like it. The north boundary of the township is practically correct, those red lines I know nothing about, the red line and the square work.

Q. Did you ever see the survey made by Mr. Dever and Mr. Patton?

A. I never saw—what do you mean, the notes?

Q. Yes, the notes and the plat?

A. I never saw any plat.

Q. You have seen the notes?

A. Yes, sir.

Q. Were those the notes you referred to?

A. Yes, in the County Surveyor's office.

Q. You don't pretend to say from the section line of section 9 as shown on this Exhibit "A"—you don't pretend 475
to say that is made from the field notes of the Patton survey, the north line of section 9?

A. It is made from his notes.

Q. After locating the section corner 4 and 5 and 8 and 9 does the line, according to Patton's notes, run in the same direction as you have made it?

A. It must.

Q. Well, does it?

A. I should say it does.

Q. It does not run straight East?

A. It proportionately deflected to the North, the same as the North line of the Township at section 4. 476

Q. Have you got the notes of the Dever survey here?

A. No, sir.

Q. Have you got them?

A. They are not in my pocket.

Q. Now, what other corner besides these corners of 4 and 5 and 8 and 9 did Patton establish?

A. On the ground 5 and 6; 7, 8 and 4, 5 and 8, 9. All the other corners located there would be made from his notes, divided up proportionately each way by measurements.

Q. What data, what authority did you have for making these extensions of the limit lines of the various lots surrounding the lake, as shown by the red dotted lines as ap- 477
pear on the plat?

A. That is merely an application of the first rule of subdividing riparian rights.

Q. Do you mean to say that, assuming the lake to be as it is as shown upon this plat, that there is a rule for the establishment of riparian rights that would lead to these results?

A. It would not be an absolute rule. If the lake was irregular they would all converge to the center, if it was

semi-circle they would converge to what would be the centre of a circle.

Q. You don't give lots 3, 5, 6 and 7 in section 4 any lake frontage at all?

A. I presume not. I had no reference to the water boundary when I made that subdivision because it was made from the rule of subdividing from the meander line. If the water should govern it would make it more difficult to make the subdivision.

Q. You make the extension line of those lots that I have
478 just named converge to a centre which is north of the lake, north and west of the lake proper; you say that is according to a rule?

A. It is not an established rule, it is a principle. I do not know of any absolute rule.

Q. Didn't you make it because of a division of land between clients in this case and the Security Land Company?

A. Who did you say?

Q. The Security Land Company?

A. That was something I did not know about until after the map was made. It runs from the centre of section four to the south east corner.

Q. You made it according to admissions between your
479 respective rights, assuming that they had actual title to the land, so it was an agreed upon designation, not any rule, there was no rule for it?

A. It was a kind of an agreement between the parties, it might have been a quit claim.

(BY MR. STANFORD.

Q. You refer to that line from the center of section four to the south east corner of the section?

A. Yes, sir.)

Q. What particular line—did that line mark the boundaries as between these two owners?

A. It was supposed to represent it on the map, yes sir.

480 Q. Well then, your extension of the lot lines crossed it?

A. I think it did.

Q. I will ask you again if you can refer me to any rule of surveying which, in the absence of any agreement between the parties, would justify such a subdivision as you have made there?

A. I know of no rule that would bind the parties, of course their agreement would supersede it.

Q. Now then, this agreement was made according to an agreement as you understand it?

A. Not to an agreement, just the principle of subdividing frontage.

Q. What rule of subdivision of frontage on meander line did you follow in making this?

A. It would converge to the center if it were circular or semi-circular.

Q. In case it would be a circle any fellow would have a chance on the lake front, wouldn't he?

A. According to what you mean, the lake, I call all that part inside of the meander line, I call that the lake legally, when I was subdividing the frontage I made deflections from 481
the meander line.

Q. Now I understand the principle upon which you work, on the principle that there was no actual lake there?

A. I ignored it entirely.

Q. You ignored it entirely?

A. Yes, sir.

And upon Re-Direct Examination by Mr. M. H. Stanford, said witness testified as follows:

Q. Mr. Cook, in running those lines respresenting extensions of the lots to the actual waters of the lake, did you have in mind a principle giving different parties any particular share of the lake frontage? 482

A. Not the water. In making the map I made it independent of the location of the lake itself.

Q. Then you made it without reference to the location itself those extensions of the lot lines?

A. Yes, sir.

Q. Mr. Cook, now this defendants' Exhibit "I" that you have examined, you may state whether or not that is a map at all of anything in existence in Township 57-17 or whether it is a mere sketch in ~~on~~ principle involved in the survey of that Township?

A. The map is ambiguous; it has two township lines on the North.

Q. How about the sections as represented there? 483

A. They appear to be represented very nearly square.

Q. How about that surplus between this red line and the black line which is at the top?

A. There is a surplus there, I don't know what to call it.

Q. Where would that surplus appear on a plat of that kind?

A. It appears to be between the north line of the north sections and the township line.

Q. It would be merely an addition to the north tier of sections, it would be an addition of territory—now for instance, this is a square section this would place it there all the surplus in one section (indicating)?

A. The surplus that is between these two lines is still there, there is no west line of the surplus.

Q. What could you do with that territory lying between that red line which appears as a section line and this north township line? (indicating).

A. You will have to ask the man that made the map.

484 Q. It don't represent anything?

A. I don't know as it does.

Q. There is nothing in fact in the condition of that territory that that sketch would represent?

Q. There is nothing in fact in the condition of that territory that that sketch would represent?

A. That is all I can make of it. It don't represent anything.

Q. Now, as to that complainants' Exhibit "B", what is the difference between that and this defendants' Exhibit "Y"?

A. I don't see much difference only the North boundary in Exhibit "Y" is approximately correct that is the 485 black line representing the township line is added to this Exhibit "B".

Q. Otherwise it is the same?

A. It appears to be the same.

Q. In other words this lake is put in there with square townships, with square sections and square sub-divisions?

A. It appears to be.

Q. Mr. Cook, in making a re-survey of township 57 N. R. 17 west, in order to make a correct survey, I will ask you whether it would be necessary to cut timber in running the line, the necessary lines to make a survey?

A. I think it would be necessary.

486 Q. Any considerable amount?

A. All that part of the township that I have seen appears to be pretty well timbered.

Q. How would you proceed to make a correct survey of any portion of that township leaving the Patton survey out of the question?

A. I would have to run transit lines.

Q. Where would they have to run?

A. In making an independent survey you would have to surround the township with the four boundaries and in order to establish interior corners you would have to run

air lines through the township in both directions north and south east and west.

Q. And then?

A. Make correct measurements.

Q. Then what would you have to do?

A. Correct your intersections by the original field notes so as to make proportionate miles or section lines all through the township, in proportion to the old survey.

Q. What do you mean by proportion?

A. For instance—the North and South lines through the center of the township overruns about 90 rods at that you would have to divide up in proportion all through the township. 487

Q. You are talking about the original survey?

A. The original survey shows the miles should be equal and in that case you would have to make the subdivisions accordingly, make all miles equal under the north and south lines, except where there are fractions on the north boundary that would vary a little, as a general thing you make the miles north and south equal.

Q. If it was an original survey, as suggested by Mr. Evans, would an original survey be accepted, with such a survey as existed there would it be accepted by the government? 488

A. It might.

Q. How as to surplus on the north line in the original survey?

A. No, the original survey did not show a surplus.

Q. Suppose you were going to make an original survey and the field notes would show there was that difference, that is the difference existed between the—that there was that surplus in the north part of the township that exists in this township, would such a survey as that be accepted by the government?

A. You could not suppose that I could make an original survey of this township, but in making the original survey the overplus is left on the outside on the north tier of sections and the west tier. 489

Q. How much surplus, over and above what would be a full township, would the government accept as a survey or set aside?

A. I don't know as there is any limit to the surplus; it is only marked on the the last tier of sections, sometimes there is an overplus of 80 rods; it depends on the township boundaries. I have seen townships that would have half a mile extra where it closes on to a correction line.

Q. We are assuming that this survey is an original survey, no lines to close on except the township boundary?

A. The township lines are always run first in new territory, subdivisions are generally made by another party entirely. If the township lines are accepted as fixed, if the plat shows it to be correct the overplus in measurement north and west is noted on the plat, I don't know if there is any limit to that surplus, if the commissioners are satisfied with the township lines and satisfied that the subdivision is made in accordance with the law I don't know as
490 there is any limit to that surplus.

Q. In a case like this, where the survey is supposed to be made where the field notes are returned by the surveyor and the Surveyor General has made his plat from the notes filed and acepted by the Government, how does it differ in making a re-survey of that township from an original survey?

A. In that case the re-survey has to conform to the original, if there is an excess you must extend your measurements and if there is a shortage you must contract your measurements, each approximately.

Q. Your method in making Exhibit "A", what did you
491 first do in making that plat?

A. I first estimated the courses and distances all around the township and computed the latitude and longitude to see if it is correct and from that I could compute. After having a few opposite corners I could compute the distance between them.

Q. State what you did?

A. I computed the north and south lines first and then took the east and west lines and computed an air line first then from the original notes and subdivision of the north and south lines I computed the east and west line which is generally pretty irregular in the north part of the township; the north part being so irregular would affect the
492 east and west lines; the north and south lines are pretty near straight but the east and west lines going towards the north would all be deflected from the regular straight line on account of the irregular northern boundary. On the north and south lines through the center of the township would be the most overplus and it would deflect the east and west section lines to the north all the way through.

Q. After you had the section corners on the boundary established what did you do?

A. I computed them and then made my map.

Q. After you got your map what did you do with the meander lines?

A. Took them from the original meander notes of the Howe survey.

Q. The actual waters of the lake to the south east how did you trace that in?

A. That is from personal observation and measurements and whatever information I could get from other maps.

Q. State whether you put it in there in accordance with certain distances from corners? 493

A. I located the south and west part of the lake from the section corners, and the measurements on the county road.

And upon Re-Cross-Examination by Mr. Robert G. Evans, said witness testified as follows:

Q. Did you ever measure from the west side of the township to the line, Mr. Cook?

A. No, sir.

Q. You don't know if the location of the west boundary of that lake is right or not with reference to the west boundary of the township?

A. Not directly; am satisfied by location from measure- 494
ment from north quarter post of section 5 then south taking careful measurements and we triangulated and located the lake practically the same in each case.

Q. If you were making a survey of that township as Howe makes it, as in an original Government survey, you would run the lines straight?

A. I think I would if I were making an original survey.

Q. If you were making a survey under instructions from the Government?

A. In re-surveying Government territory that is the usual practice.

Q. Isn't it the universal practice?

A. I think it is generally. 495

Q. You could have done that in this instance clear up to the five mile limit?

A. Not according to the original plat, after the plat is made you have to be governed by it.

Q. Were there no monuments there?

A. There were monuments around the township.

Q. Were there no monuments set inside?

A. But the outside monuments governs the measurements.

Q. Do the old notes show the lines deflected toward the North?

A. No but the monuments govern.

Q. So far as the field notes show a square township?

A. Yes.

Q. The reason why you say you can't do that is because you believe the rule of division to be—

A. After a township is once surveyed a re-survey is governed by the original plat making subdivisions accordingly by proportionate measurements.

496 Complainants' Exhibit "C" is offered in evidence.

C. E. BAILEY, a witness produced on behalf of said complainant, being first duly sworn to tell the truth, the whole truth and nothing but the truth, upon oral interrogatories propounded to him by M. H. Stanford, solicitor for complainants, testified as follows:

Q. Mr. Bailey where do you reside?

A. At Virginia, Minnesota.

Q. What is your age?

A. 40 years old.

Q. What is your business and how long have you been engaged in it?

497 A. Mining engineer and civil engineer, I have formerly done a great deal of surveying.

Q. Land surveying?

A. Yes, sir.

Q. Are you familiar with Township 57 North of Range 17 West in this county?

A. Yes, sir.

Q. State what is your actual experience in this line of business?

A. I have been mining and civil engineer and in the surveying business for fifteen years. Down in Houghton among the copper mines I was Deputy County Surveyor from 1884 to 1889 and had during that time a great deal
498 of subdividing work coming up, I was very familiar with subdivision work. I have been familiar with all work done on the Mesaba Range but my larger experience was among the Michigan copper mines where the values were large and the work had to be done very correctly.

Q. You may state what that is that you hold in your hand?

A. It is a plat of a portion of 57-17 with a little part of 58-17 showing Ely Lake and surroundings.

Complainants' Exhibit "D" offered in evidence.

Q. Who made that plat?

A. I made it myself.

Q. You may state the plan pursued by you in making that plat and what you based the plat on, what investigation and information and authority?

A. The Patton survey giving courses and distances around 57-17.

Q. That is the entire township?

A. Yes, sir, the three lines cut through the interior being checked in a great many instances by work done by myself and my deputy and in every instance found to be fairly correct was the general basis of the work. The 499
whole thing is made to scale and shows everything exactly as it is.

Q. On the ground?

A. On the ground. The deflections that show on the map on the boundaries are as they actually exist on the ground. In nearly every case on the north line and on three of the corners on the west line I have examined with the Government field notes in my hand the bearing trees and found them to correspond with the Government field notes, which satisfied me of their accuracy and gave the basis of a survey. This is certified to in the County Surveyor's records. The lake as it actually exists was meandered 500
by taking courses and distances in six different directions and chaining along those courses and where the shore line was not regular offsets were measured from these lines to the shore line. On the eastern bay the actual shore line was located in six places by pacing.

Q. Can you state where that was as you go along?

A. That point there and that east end there. (Indicating.)

Q. Can you state what in relation to the plat?

A. Starting from the township line east of the north quarter of 2, I paced south locating the actual position of the lake and also by pacing I located the east end of the lake; the remainder was located by courses and distances 501
with the offsets measured and the actual position of the shore line on the map shows the actual position of the lake with reference to the exterior township lines and all lines show on the plat exactly as they are on the ground; the main shore line was platted in this way.

Q. You mean the actual shore line?

A. The main meander line. The end of each course and distance is put exactly in the position in these irregular 40s. that it would have come and actually did come on the Government plat corresponds to the Government survey

so a proportionate part of each 40 within the lake and outside of it corresponds to the Government plat. Is it desired that I give how I arrived at that?

Q. Yes.

A. The government field notes close on section lines in meandering the shore line of the lake and in this case the closing was fairly accurate, on the assumption that all work was square and full.

Q. Now, do you refer to the Government plat?

A. No, I refer to the Government field notes. Meandered courses and distances are given on the government field notes from which the government plat is made, then each distance is figured and latitudes and departures and forced them to close and then put in the same position in the irregular 40s then made to correspond with where it would be if the 40 had been full and square.

502

The extreme end of the lake is platted from the ~~road~~ old notes, the Miller Trunk road notes, these notes were in my possession and are on file in the County Surveyor's office. I checked latitudes and departures from the north quarter post of section 5 clear down beyond St. Mary's lake closing on Mr. Patton's line and the latitude and departures prov~~ing the survey~~ correct with Mr. Patton's survey as they were checked against each other and were correct.

503

Q. Who made the survey of the Miller Trunk road?

A. Mr. Cook did the first work, I can't remember the County Surveyor who gave me the minutes.

Q. Mr. Cook who has just testified, who has just sworn, it was his work?

A. Yes. The interior lines were arrived at in this way. With the total distance North and South on actual measurement or from figuring latitudes and departures this total distances were divided in the proportion given in the Government plat of 57-17. On the east and west section lines the same principle was used except that the actual lines as they would be actually run were made proportionate rather than giving the absolute proportion of ~~easting~~ and ~~westing and~~ after the section corner ~~was located~~ the 40 lines ~~were~~ put in in the regular way.

504

Complainants' Exhibit "D" is offered in evidence. Scale 1000 feet to the inch.

Q. Mr. Bailey I offer you, I hand you for examination Complainants' Exhibit "A" and will ask you to say if you know what that is?

A. It is evidently a plat of 57-17.

Q. State what examination and comparison you have

made of it that paper which you have in your hand with a view to ascertain its accuracy? as a part of that Township or any part of it? squared

A. I have not ~~scaled~~ it, it appears to be correct, to square ~~show~~ everything in proper proportions.

Q. How is it as to sections adjoining Ely Lake as to that?

A. They appear to be actually as the lines are on the ground where there are Government corners to determine these lines where there are none they appear to have been put in ~~proportionately~~. approximately 505

Q. Have you not made an examination of that plat in connection with your field notes?

A. No, sir.

Q. I wish you would examine Complainants' Exhibit "B," what would you call that Mr. Bailey?

A. I would call that a sketch, I don't think that it is either a plat or a map. If those sections are square and all those 40s are square it is one of the first cases on record that I have ever known of.

Q. How does it represent the contour of Ely Lake, the actual lake, its location in that Township?

A. So far as I can see it is largely a copy of the Government plat with the lake as it is, (~~exists~~) sketched in but 506 sketched in very roughly indeed, very carelessly.

Q. Do you notice any particular portion more out of position than others?

A. The south west end of the lake is over a quarter of a mile in error.

Q. Which way?

A. Too far north and too far East.

Q. Each way more than a quarter of a mile?

A. It does not extend as far south west by a quarter of a mile as the actual lake. There is ~~an~~ attempt made to show the Northern boundary as it actually is, it is nothing more than a sketch unless the map is intended to represent a copy of the Government plat with the actual lake sketched 507 in, if so the lake is sketched in very roughly and carelessly.

Q. In making your plat Exhibit "D", which is offered in evidence, state whether you were governed by the record or courses on the East and West lines, with regard to courses on East and West lines?

A. I made it up on the ordinary rule of subdivision for lost corners and made section lines both East and West and North and South proportionate for those called for in the Government plat.

Q. I would like to ask you, Mr. Bailey, what property, if any, would be affected by a re-survey of the North portion of this township and how it would be affected?

A. There are ten 40s underlaid with ore in sections 5 and 6 with a tonnage of twenty million tons of ore on which mining has been in progress for five years and the section corners as set by the Patton survey have been accepted and month by month these have been used, in mining, to the lines of the different 40s for several years and a great deal of complication and expensive litigation is bound to
508 follow any changes of the Patton corners.

Q. State what other property you have mentioned would be affected by a re-survey?

A. The boundaries of timber lands in a great many cases would be and nearly all the timber cut in the last four years since the Patton survey has been cut on the lines based on the Patton survey. The owners applied through the ~~Board of~~ County ~~Commissioners~~ to have the question of boundaries settled and it authorized the County Surveyor to proceed and the owners of the larger proportion of values in the township have accepted and been using these lines for several years.

Q. Just look at that Mr. Bailey?

509

OFFERS IN EVIDENCE COMPLAINANTS' EXHIBIT "E."

Q. This paper is designated as Exhibit "E," can you say whether—what survey, if any, was called out pursuant to the resolutions of the Board of County Commissioners, mentioned in Exhibit "E"?

A. The Patton survey was the outcome of this by the authority of the Board of County Commissioners.

Q. He acted under authority of this?

A. Yes, sir.

510 Q. Since that survey these mines have been operating under that survey, and a change would create trouble?

A. Yes, sir, conflicting boundaries in quite a number of cases, representing a large tonnage of ore, would be affected by any change.

Q. In making a re-survey of this township state whether it would be necessary or not to have any amount of timber cut in order to make an accurate survey?

A. Several miles of lines would have to be chopped and a good deal of timber destroyed and the down timber would leave a danger of fire, it would be very objectionable.

Q. Why would these lines have to be cut?
A. In order to set the corners of sections.
Q. How about running the lines by transit or otherwise?
A. You would have to chop the lines out in order to do the work accurately.
Q. How wide would you have to cut them?
A. At least four feet so as to see clearly. In clearing lines long distances there is liable to be high places. If any work is done there it would have to be done accurately or it had better not be done at all.
Q. What character of timber would have to be cut? 511
A. A good deal of pine would have to be. Then a great many of the lines run there, in some cases three or four lines run to cover the same object.

And upon Cross-Examination by Mr. Robert G. Evans, the witness testified as follows:

Q. Did you cut any lines when you were through there?
A. I have chopped within the township some four miles of lines all together.
Q. Did Patton cut any lines?
A. Yes, sir.
Q. Did Mr. Cook cut any? 512
A. The road was built on Mr. Cook's lines and all the timber on the roadway was cut. I don't know if there was any damage by the lines of Mr. Cook.
Q. There would be no special damage in cutting of other lines except the timber taken down?
A. There would be a good deal of timber felled and there would be danger of fire.
BY MR. STANFORD:
Q. Has not some portion of it burned?
A. There was no loss except the amount of timber actually destroyed.
BY MR. EVANS:
Q. This map you made at the request of these com- 513
plainants?
A. It was made up for general use with reference to my work.
Q. Under employment from them?
A. It was made before I knew it was to be used for it.
Q. The question was was it made under employment from them?
A. I can't say that it was.
Q. For whom was it made?

A. It was made at my own expense. I ~~made it to determine mine boundaries and used in running lines around the lake. For mine boundaries it was necessary~~ to have it accurate.

Q. At whose instance?

A. Nobody paid me for it. In ~~my mine~~ contracts for different parties I had to have it.

Q. Did you have some contracts with the ~~complainants~~ Consolidated?

A. Yes, the largest was with them.

Q. With their knowledge and consent you ran through
514 their lands?

A. Yes, sir, the lines I have run have been mainly for them.

Q. Now, the quarter lines are shown on your map that has been offered in evidence have they not?

A. Yes, sir.

Q. On the dotted lines?

A. Yes, sir.

Q. The section lines are shown solid?

A. Yes, sir.

Q. I will ask you if you have computed the number of acres in lot 1 section 10 as appears on the Government plat, if that lot was extended to the actual shore of the lake?

515 A. It would be a little in excess of forty acres.

Q. To the actual shore line of the lake?

A. Yes, sir.

Q. How do you run that to the lake, Mr. Bailey, in that computation how did you run to the lake?

A. I have not figured accurately, approximately, through the line as near as I could at right angles to the general longitudinal trend of the lake.

Q. Suppose you extended lot 1 to the lake on the course of the forty lines on each side how much would there be?

A. I beg your pardon, this is the only portion I figured. (Indicating.)

516 Q. In that subdivision taking this—if you ran up on each side how much would you have?

A. I have not figured up that point would come up here. (Indicating.)

Q. I mean straight up just as in your map, the dotted lines extended?

A. The surplus or a part what is shown on the Government plat would be approximately 75 acres.

Q. Suppose you extended lot 1 in section 4 on the course lines to the lake do you know what the surplus would be there as shown on the Government plat?

PAGE CUT OFF

A. It would be about 120 acres.
Q. The same is true of lot 8?
A. Approximately.
Q. And in running to the lake it would cross two quarter lines and section lines between 4 and 9 would it not?
A. It would cross two forty lines and section lines, the quarter line is from quarter to quarter.
Q. You would cross two forty lines and section line between 4 and 9 in running lot 1 to the lake you would cross section lines the north boundary of 10 extending lot 1 to the lake, that is right? 517
A. Lot 1 and 4?
Q. No, in 5 extending to the lake you would cross those?
A. Oh, yes sir.
Q. I understand you to say that you measured the South west boundary of the lake to the town line on the west?
A. On the north.
Q. Only on the north?
A. I figured the latitude and departure from the north quarter, of section 5 clear down the Miller Trunk line until I closed on the Patton survey south of St. Mary's Lake.
Q. In doing so that included a portion of the south west arm of the lake.
A. Yes, sir. 518
Q. Of course the damage and inconvenience which you speak of and litigation which might follow a re-survey of the Township depends altogether on principally making a change in the Patton survey?
A. Yes, sir.
Q. I want to call your attention to some pencil marks inside of ..... line, they are not a part of your map?
A. No, they were put in rather hastily.
Q. You don't include them as a part of the map?
A. No, sir.
Q. The lines running in a southwesterly direction from the meander line of the lake?
A. They were just put in as true lines in lead pencil. 519
The only riparian line that I was called on to run on part of the lake where the shore line was fairly corresponded to a curve and I ran that line towards the center of the curve.

And upon Re-Direct Examination by Mr. M. H. Stanford, testified as follows:

Q. As a matter of fact there were no quarter or other lines within the meander line on the Government plat?
A. No, sir.

Q. In relation to the division of the fractional lots bordering on the actual waters of the lake, what is the plan, what plan would you pursue?

A. In dividing this up among the various lots, in case the channel was fairly straight or the trend of the two shore lines was approximately parallel and gave a uniform longitudinal trend I should carry a line down at right angles to the trend of the lake from the boundaries between the different lots. In case it curved I would carry them down towards the center of the curve with the endeavor to
520 give each the proper proportion.

Q. Of lake front?

A. If possible but there are some cases where it is impossible.

Q. In cases where it is possible?

A. It is desirable to give them lake front, but very often it is an impossibility.

J. D. LAMONT, a witness produced on behalf of said complainants, being first duly sworn to tell the truth, the whole truth and nothing but the truth, upon oral interrogatories propounded to him by Mr. M. H. Stanford, solicitor for complainants, testified as follows:

521 Q. Mr. Lamont, what is your—you may state your name, your age and where you reside?

A. My name is J. D. Lamont, my age is 30 years and I reside at Virginia, Minnesota.

Q. What is your occupation, Mr. Lamont?

A. Mining engineer and surveyor.

Q. How long have you been engaged in that occupation?

A. About six years.

Q. What exeperience have you had as a land surveyor?

A. All my experience has been on the Mesaba range. I have been occupied subdividing on the Mesaba Range.

522 Q. What knowledge have you of Township 57 North of Range 17 West, in this county?

A. I ran several lines in the township, have been through around the township on the outside.

Q. You have been all around the township?

A. Not all. On the east line and the west and north.

Q. State the lines you ran over as surveyor?

A. I will have to have that plat. (Takes plat and examines it). Now, I ran over the North line of 57-17 from the north west corner of 5, I have run over that line, the whole section line to the north east corner of 5 and the

north line of section 4 57-17 and as far as the north quarter of section 3.

Q. The north quarter, that would be north?

A. The north quarter section post. I did this checking the measurements with Mr. Patton.

Q. On what is known as the Patton Survey?

A. Yes, sir.

Q. Or the county survey?

A. Yes, sir.

Q. Proceed and tell what you did else?

A. In section 4 I ran a line from the north quarter of section 4 south on the center line to the center of 4 then ran a line diagonally from there to the south east corner of 4, locating that corner, ~~up to~~ that time the corner had not been located. At the south east corner of section 5 I measured north from there to the Town line one mile ~~in~~ checking with Mr. Patton's work there; then I figured out an angle at the south east corner of 5, using Mr. Patton's work as a basis, ~~ran~~ a line west which struck the quarter post on the north of section 8 set by Mr. Patton checking it for courses and distances, then I turned an angle ~~east~~ from that same corner ~~the~~ south east of 5, and ran it about half a mile. Mr. Bailey afterwards ~~completed~~ it striking the south east corner of 4 making an entire check of it. Then I measured south from the south east corner of 5 half a mile then figuring out a course again on Mr. Patton's work as a basis I turned west and ran half a mile, then turned another angle and ran north a quarter of a mile, then turned again and ran out to the west boundary of section 8 and checked on post there which I set previously by measuring down from the north line. That is about all the lines I ran. 523 524

Q. In your testimony you say you ran in different directions north, south, east and west, state what you meant by that, general directions?

A. I went south and west or north in a general direction, not true north, or true west or east. 525

Q. On the lines as figured out in the Patton survey?

A. Yes, sir.

Q. In making these lines you ran them for the purpose of checking the Patton survey?

A. Partly, yes, but not all.

Q. What conclusion did you arrive at as regards the Patton survey?

A. Uniformly correct. Most of them came in checking within less than a foot.

Q. State what measurement, if any, you made from any particular point to the lake, that is the south west arm of the lake? confining the question to that?

A. I ran that line I spoke of before, from the center of 4 south east diagonally to the south east corner of 4; that was also figured out on the basis of Patton's work. Mr. Bailey had this Ely Lake plat at this time.

Q. On the same plat as this you have in your hand?

A. Yes, sir, and it showed, the plat showed Ely Lake to be 60 feet east of this corner (indicating).

526 Q. Which corner?

A. The south east corner of 4, and I located that corner and I paced from there out to the lake, and found this lake on this plat was correctly platted the distance from the point east to the lake scaled 60 feet on the map, which was shown to be the same on the ground by pacing.

Q. Then you are familiar with what is known as the Patton or County survey?

A. Yes, that is the only survey I ever worked on.

Q. What is that map constructed on the plan of?

A. On the plan of the Patton survey.

Q. I will show you complainants' Exhibit "B" and

527 will ask you what does that represent, if you can say?

A. Why, I think it represents the meander line of Ely Lake as shown on the Government plat, but the part of the lake itself does not seem to me to be as it actually is.

Q. But you know that it is not as it actually is?

A. Yes, sir.

Q. The boundaries—what property, if any, of value has been established by the Patton survey?

A. Within township 57-17 there are three working mines and about three or more that are working at present which contain valuable deposits of ore. The properties that are working are all using the boundaries, those made by the Patton survey.

528 Q. What would be the effect of changing the lines of the Patton survey as to these properties?

A. It would disturb all these boundaries and work great damage.

And upon Cross-Examination by Mr. Robert G. Evans, witness testified as follows:

Q. I will ask you was there ever a map made by Patton in the survey of this township?

A. No sir, that is I have never seen it if it was made.

PAGE CUT OFF

T. H. CROSWELL, a witness produced on behalf of said complainants, being first duly sworn to tell the truth, the whole truth and nothing but the truth, upon oral interrogatories propounded to him by Mr. M. H. Stanford, solicitor for complainants, testifies as follows:

Q. Mr. Croswell, you are one of the defendants in this action, are you not?
A. I have lost track of the action Mr. Stanford.
Q. You had a contract with the Government for a re-survey of a portion of Township 57-17? 529
A. I did, yes, sir.
Q. You were engaged to do that work?
A. Yes, sir.
Q. Now, your work was confined entirely to building your camps and getting ready to make the survey?
A. We didn't have any camps, boarded right there.
Q. What work, if any, did you do in running any lines on the north?
A. All I did in running lines was from the corner of sections 3 and 4 and 33 and 34 an easterly course to the meander line of the lake and then also from that same section corner I started a little line south but never completed it. 530
Q. You didn't measure up any of it except run the lines?
A. I did measure but I have lost the notes of it.
Q. You simply ran over an old line?
A. Yes, sir.
Q. You did no other work?
A. That is all.
Q. It took you about how many hours?
A. I was there a day and a half.
Q. I mean in running lines?
A. About half a day.
Q. How much help did you have?
A. Three men besides myself. 531

THOMAS H. PRESSNELL, a witness produced on behalf of said complainants, being first duly sworn to tell the truth, the whole truth and nothing but the truth, upon oral interrogatories propounded to him by Mr. M. H. Stanford, solicitor for complainants, testified as follows:

Q. Mr. Pressnell, state your age and occupation and where you reside?

A. I am 56 years old, live in Duluth and am Deputy Clerk of the United States Circuit Court.

Q. How long have you resided here?

A. In Duluth?

Q. Yes, sir.

A. Thirty years.

Q. State whether you know the complainants Messrs. Murphy, Robinson & Flinn and Dorr?

A. I do.

Q. How long have you known them?

532 A. Mr. Murphy and Robinson & Flinn I have known since 1882 and Mr. Dorr for four or five years.

Q. State what, if anything, you had to do with a purchase made by Simon J. Murphy in 1883 of lands in sections 1, 3, 4, 9 and 10 in Township 57-17 west in this county, I think there were also some other lands in the township North?

A. As agent of Graff & Little I sold those lands to Mr. Murpy, through Robinson & Flinn.

Q. What, if anything, at that time did you—what information, if any, at that time did you give out to these parties with whom you dealt as to any irregularities in the survey in that township?

533 A. Nothing.

Q. What was the basis of the purchase?

A. The basis of the purchase was pine timber.

Q. The basis of the purchase was pine timber, you say?

A. Yes. sir.

Q. What other conversation was entered into at the purchhase on the part of Robinson & Flinn and Messrs. Murphy and Dorr?

(BY MR. EVANS.

Q. If you know?)

534 A. The negotiations were carried on with Mr. Eveleth, Mr. Erwin Eveleth. I had advertised those lands for sale and had them for sale and he came in my office one day and got an option on the lands. He had a map. I don't remember if he had it at the time he got the option or afterwards, but we looked over that map at the lake with reference to its being a good place to hold logs or something of that kind. I remember that at one time I had shown him the outlet, or what was supposed to be the outlet as it showed on the map.

Q. You mean the Government plat?

A. Yes, sir, showing where the St. Louis river ran there, the lower end of it and a little stream from the lake ran down to it, and where that stream left the lake was a claim owned by C. N. Nelson Lumber Company. I suggested to him that he could easily make an arrangement with the C. N. Nelson Lumber ompany to get the use of that stream as an outlet for their logs on St. Louis River. I don't recollect that we had very much conversation. Mr. Eveleth seemed to know the situation; all he wanted was the option.

Q. Was there anything said at that time about the 535
riparian right, the right to use the lake and control the outlet between you and Mr. Eveleth?

A. I don't know as there was anything said, it was understood. For my part I don't know that I had any such conversation.

Q. No more than what you have stated?

A. No, sir.

Q. Did you have anything to do with selling to him this outlet of what you then supposed to be the lake?

A. I did afterwards; I sold it and some lands North from there, that was another transaction.

And upon Cross-Examination by Mr. Robert G. Evans, the witness testified as follows: 536

Q. You say that you had a map of the township?

A. A Government plat.

Q. You had a Government plat, was that a blue print of the Government plat?

A. No, it was a common copy generally used, Mr. Eveleth got it from the land office.

Q. Those were copies of the Government plat as filed in the Government land office?

A. I can't say.

Q. It was supposed to be?

A. The officers did not make plats just exactly as they were unless they were ordered to do so. They didn't put in 537
fractions or acreage in common plats, just tracings of the land.

Q. So you could see the boundaries?

A. Yes, sir.

BY MR. STANFORD:

Q. This plat had the location of the lake as shown on the Government plat and the streams?

A. Yes, sir.

MR. J. D. LAMONT, re-called and further examined by Mr. M. H. Stanford, testified as follows:

Q. I will ask you, Mr. Lamont, first, if you know the manner of subdivision of surplus territory as in the case presented in the territory around Ely Lake?

A. Yes, sir.

Q. I wish you would state the rule adopted by surveyors, and which you understand to be correct, for the division of the surplus territory in such case lying between the meander line and the actual waters of the lake among those
538 different government lots?

A. As I understand the rule, it is to give to each lot owner a share on the actual water front proportionate to his share as shown on the meander line of the lake as shown on the Government plat and each to have all the land lying between the extended lot lines to the points of boundaries on the actual waters. It does not matter the method which is adopted so long as it accomplishes this end.

And upon further Cross-Examination by Mr. Robert G. Evans the witness testified as follows:

Q. Did you ever have any experience in making divis-
539 ions of this kind?

A. No, sir, except the reading of decisions.

Q. Do you know of any case in order to do that where you would have to cross section lines in order to reach the lake shore?

A. No, sir, I do not.

Q. I would like to have you state in a general way the rule for dividing up surplus territory lying between the meander line, as shown in the Government plat, in such case as shown here, as adopted?

Q. I will ask you if you know the rule?

A. Yes, I am somewhat familiar with riparian boundaries.

540 Q. You may state the rule if you know it as I have asked it in the previous question?

The reporter will read the question.

Q. I would like to have you state in a general way the rule for dividing up surplus territory lying between the meander line, as shown in the Government plat, in such case as shown here, as adopted?

A. If there is a longitudinal channel or if the sides of the lake are comparitively parallel, the riparian boundaries are extended to the actual waters edge at right angles to

such channel or such side lines; if the shore line is circular the riparian boundaries are extended towards the center of the circle.

Q. State in a general way what is the object of the rule for subdivision of such territory as to the various lots?

A. To give them their correct proportion of the surplus and of navigable streams their proportion of water frontage

Q. Where do you get this rule?

A. From the repeated decisions of the Courts.

541

MR. C. E. BAILEY, being re-called and further examined by Mr M. H. Stanford, testified as follows:

Q. Did you ever have any experience in applying that rule just referred to by Mr. Lamont in a case like this?

A. In cases somewhat similar to this, in the Copper country where there were several hundred feet of made ground, where it was made by the dumping of sand and waste.

Q. That was in cases of made ground?

A. Yes, sir, where they made ground by dumping sand into the lake where the frontage was on the navigable wat- 542
ers and where it was a question of value.

It is agreed by and between the respective counsel that the following questions put to Mr. Lamont and the answers thereto shall be considered to have been put to Mr. Bailey and to have been answered by him in like manner, he having been present and heard the questions put to Mr. Lamont and the answers thereto.

Q. I would like to have you state in a general way the rule for dividing up the surplus territory lying between the meander line, as shown in the Government plat, in such case as shown here, as adopted?

Q. Iwill ask you if you know the rule?

A. Yes, I am somewhat familiar with riparian boun- 543
daries.

Q. You may state the rule, if you know it, as I have asked it in the previous question?

The reporter will read the question?

Q. I would like to have you state in a general way the rule for dividing up surplus territory lying between the meander line, as shown in the Government plat, in such case as shown here, as adopted.

A. If there is a longitudinal channel, or ~~such side lines~~; if the sides of the lake are comparatively parallel, the riparian boundaries are extended to the actual water's edge at right angles to such channel or such side lines

if the shore line is circular the riparian boundaries are extended towards the center of the circle.

Q. State in a general way what is the object of the rule for subdividing of such territory as to the various lots?

A. To give them their correct proportion of the surplus and of navigable streams their proportion of water frontage.

Q. Where do you get this rule?

A. From repeated decisions of the Court.

544 MR. J. D. LAMONT, being further re-called, on examination by Mr. M. H. Stanford, testified as follows:

Q. Now, in the case of Ely Lake between the meander line as shown on the Government plat, and the actual waters of the lake, are there any actual quarter lines as stated?

A. No, sir.

Q. Do not those lines show on the map made by Messrs. Cook and Bailey?

A. They may on that map.

And on Cross-Examination by Mr. Robert G. Evans, the witness testified as follows:

545 Q. If the township was divided in sections and quarter sections by running lines from the section corners east and west, that is from section corners on the east and west line of the township from the boundary line of the township would not the extension of the lots which are shown on the Government plat as bordering on the meander line of such extension to the lake across such forty lines and section lines?

A. I don't know absolutely that they would they might.

Q. Look at the plat and answer the question?

A. I see by this plat they do cross.

BY MR. STANFORD:

546 Q. How would that rule apply as to the conditions now existing at Ely Lake confining it to Ely Lake?

A. A division of lands inside of the Government meander line would be divided between the different owners according to the usual rule of riparian boundaries or by agreement and no section lines or forty lines would appear inside of this Government meander line.

It is agreed by and between the respective counsel that the following questions put to Mr. Lamont and the answers thereto shall be considered to have been put to Mr. Bailey and to have been answered by him in like manner, he, Mr.

Bailey, having been present and heard the questions put to Mr. Lamont and the answers thereto.

Q. Now, in the case of Ely Lake between the meander line, as shown on the Government plat, and the actual waters of the lake are there any actual quarter lines as stated?

A. No, sir.

Q. Do not these lines show on the map made by Messrs. Cook and Bailey?

A. They may on that map.

And on Cross-Examination by Mr. Robert G. Evans, the witness testified as follows: 547

Q. If the township was divided in sections and quarter sections by running lines from the section corners on the east and west line of the township from the boundary line of the township, would not be the extension of the lots which are shown on the Government plat as bordering on the meander line of such extension to the lake cross such forty lines and section lines?

A. I don't know absolutely that they would they might.

Q. Look at the plat and answer the question?

A. I see by this plat they do cross.

BY MR. STANFORD: 548

Q. How would that rule apply as to the conditions now existing at Ely Lake, confining it to Ely Lake?

A. A division of lands inside of the Government meander line would be divided between the different owners according to the usual rule of riparian boundaries or by agreement and no section lines or forty lines would appear inside of this Government meander line.

The Complainants thereupon offer in evidence a Patent from the United States Government to Addison G. Petrie, conveying lot No. 1 in section 3; lot 8 in section 4; lot 4 in section 9, said patent bearing date the 20th day of February, A. D. 1882, recorded in the office of the Register of Deeds of said St. Louis County on the 10th day of April, A. D. 1883, in Book "B" of Patents at page 577, which patent was marked Complainants' Exhibit "F." 549

Complainants then offer in evidence a certified copy of the record of a Power of Attorney from A. G. Petrie and wife, Henrietta Petrie, to C. B. Chandler, dated November 30, 1879, recorded June 24, 1880, in Book "A" of Powers 350, authorizing the said Chandler to sell and convey the

lands last above described, which Power of Attorney is marked Complainants' Exhibit "G."

Complainants then offered in evidence a certified copy of the record of a warranty deed, executed by Addison G. Petrie and wife, by C. B. Chandler, their attorney in fact, to Philip M. Graff and Daniel E. Little, bearing date May 26th, 1880, recorded in Book "L" of Deeds at page 548, which is marked Complainants' Exhibit "H."

Complainants then offered in evidence a Patent from the Government of the United States, dated February 20, 1882,
550 to Henry Koecher, conveying lot 2 of section 3 and lot 1 of section 4 in said township, which patent was recorded on the 10th day of April 1883, in Book "B" of Patents at page 576, and is marked Complainants' Exhibit "I."

Complainants then offered in evidence certified copy of the record of a deed, dated May 26th, 1880, from Henry Koecher and Catherine Koecher, his wife, to Philip M. Graff and Daniel E. Little.

Complainants then offered in evidence certified copy of a patent from the United States Government to James H. Ruttle conveying the S. E. ¼ of the N. W. ¼ and the N. E. ¼ of the S. W. ¼ of section 10, recorded in Book "A" of Patents at page 268, dated March 30th, 1883, hereto annexed and
551 marked Complainants' Exhibit "J."

Complainants then offered in evidence a Patent from the Government of the United States to James H. Ruttle, recorded in Book "B" of Patents at page 307, conveying lots 1 and 2 in section 10, hereto annexed and marked Complainants' Exhibit "K."

Complainants then offered in evidence certified copy of the record of a warranty deed from James H. Ruttle to Charles A. Moore, dated January 3rd, 1880, conveying lots 1 and 2 and the S. E. ¼ of the N. W. ¼ and the N. E. ¼ of the S. W. ¼ of section10 recorded in Book "L" of Deeds at page 410, hereto annexed and marked Complainants' Exhibit "L".

552 Complainants then offered in evidence a certified copy of the record of a warranty deed, dated January 13th, 1880, executed by Charles A. Moore and Mary G. Moore, his wife, to Daniel E. Little and Philip M. Graff, conveying the lands last above described, recorded in Book "L" of Deeds at page 499, hereto annexed and marked Complainants' Exhibit "M."

Complainants then offered in evidence certified copy of the record of a warranty deed from Daniel E. Little and wife and Philip M. Graff and wife to Angus R. Macfarlane,

conveying lots 1 and 2 and the S. E. ¼ of the N. W. ¼ and the N. E. ¼ of the S. W. ¼ of section 10, also other lands, recorded in Book "O" of Deeds at page 287, hereto annexed and marked Complainants' Exhibit "N."

Complainants then offered in evidence certified copy of the record of a warranty deed, dated January 28th, 1880, from Angus R. Macfarlane to Edmond D. Graff, conveying the lands last above described and other lands, recorded in Book "L" of Deeds at page 439, hereto annexed and marked Complainants' Exhibit "O."

Complainants then offered in evidence certified copy of 553
the record of a Patent from the Government of the United States to Eric Larson, dated 20th day of February, 1882, recorded in Book "B" of Patents at page 578, conveying lots 2, 3 and 4 of section 1, hereto annexed and marked Complainants' Exhibit "P."

Complainants then offered in evidence certified copy of the record of a deed from Eric Larson to Daniel E. Little, recorded in Book "L" of Deeds at page 546, conveying the lands last above described.

Complainants then offered in evidence certified copy of the record of a Patent from the Government of the United States to James B. Price, covering the N. W. ¼ of the S. W. ¼ and lot 3 in section 11 and lots 3 and 4 in section 10, dated 554
October 3rd, 1880, hereto annexed and marked Complainants Exhibit "Q."

Complainants then offered in evidence certified copy of the record of a deed, dated August 16th, 1882, recorded May 26th, 1883, in Book "W" of Deeds at page 441, from James B. Price, to John McDougall, hereto annexed and marked Complainants' Exhibit "R."

Complainants then offered in evidence certified copy of the record of a deed executed June 14th, 1883, by John McDougall to the C. N. Nelson Lumber Company, conveying the N. W. ¼ of the S. W. ¼ and lot 3 of section 11 and lots 3 and 4 of section 10 and other lands, recorded in Book "X" 555
of Deeds at page 215, hereto annexed and marked Exhibit "S."

Complainants then offered in evidence certified copy of a deed dated December 29th, 1893, recorded in book 7 of Deeds at page 149, from C. N. Nelson Lumber Co., to Simon J. Murphy, conveying the N. W. ¼ of the S. W. ¼ and lot 3 of section 11 and lots 3 and 4 of section 10 and other lands, hereto annexed and marked Complainants' Exhibit "T."

Complainants then offered in evidence certified copy of a warranty deed, dated April 11th, 1883, executed by Dan-

iel E. Little and wife and Philip M. Graff and wife and Edmond D. Graff to Simon J. Murphy, conveying lots 2, 3 and 8 of section 1, lots 1 and 2 of section 3, lots 1 and 8 in section 4, the N. E. ¼ of the S. W. ¼ and the S. E. ¼ of the S. W. ¼ ofsection 6, lot 4 in section 9, lots 1 and 2 and N. E. ¼ of S. W. ¼ and S. E. ¼ of N. W. ¼ and lot 4 of section 10 and other lands, recorded in Book "T" of Deeds at page 565, hereto annexed and marked Complainants' Exhibit "U."

Complainants then offered in evidence certified copy of the record of a Patent from the Government of the United
556 States to Morris Thomas, dated 30th day of January 1884, conveying the S. W. ¼ of N. W. ¼ and N. W. ¼ of S. W. ¼ of section 9 and lots 1, 2 and 3 of section 2 and other lands, recorded in Book 6 of Patents at page 350, hereto annexed and marked Complainants' Exhibit "V."

Complainants then offered in evidence certified copy of the record of a warranty deed from Morris Thomas to Simon J. Murphy, dated February 16th, 1884, conveying the lands last above described, recorded in Book "X" of Deeds at page 307, hereto annexed and marked Complainants' Exhibit "W."

Complainants then offered in evidence Patent from the Government of the United States to Robert Pratt, dated
557 October 3rd, 1888, conveying lots 1, 2 and 3 and the N. E. ¼ of S. W. ¼ of section 9, recorded in Book "G" of Patents at page 306, hereto annexed and marked Complainants' Exhibit "X."

Complainants then offered in evidence certified copy of the record of a special warranty deed from Robert Pratt to Scott Griswold, recorded in Book "S" of Deeds at page 355, hereto annexed and marked Complainants' Exhibit "Y."

Complainants then offered in evidence certified copy of the record of a deed from Scott Griswold and wife to Simon J. Murphy, conveying the lands last above described and other lands, recorded in Book "L" of deeds at page 50, here-
558 to annexed and marked Complainants' Exhibit "Z."

Complainants then offered in evidence certified copy of the record of a patent from the Government of the United States to Thomas W. Flinn, recorded in Book "G" of Patents at page 138, hereto annexed and marked Complainants' Exhibit "A. A."

Complainants then offered in evidence certified copy of the record of a patent from the Government of the United States to Charles Beaulieu, recorded in Book "G" of patents at page 137, hereto annexed and marked Complainants' Exhibit "A. B."

Complainants then offered in evidence a certain contract from Simon J. Murphy and wife to Elisha H. Flinn, conveying an undivided one-sixth interest to the land described in the Bill of Complaint.

Complainants then offered in evidence certified copy of a deed from Simon J. Murphy to Temple E. Dorr, recorded in Book 67 of Deeds at page 396, hereto annexed and marked Complainants' Exhibit "A. C."

Complainants then offered in evidence certified copy of the record of a deed from Simon J. Murphy and wife to George O. Robinson, recorded in Book 39 of Deeds at page 559
56, hereto annexed and marked Complainants' Exhibit "A. D."

Complainants then offered in evidence a deed from the Security Land & Exploration Company to Simon J. Murphy, George O. Robinson, Elisha H. Flinn and Temple E. Dorr, recorded in Book 68 of Deeds at page 582, hereto annexed and marked Complainants' Exhibit "A. E.", said lands being situated in Township 57 North of Range 17 W. St. Louis County, Minnesota.

I hereby certify, that in the taking of the above depositions the said witnesses were produced before me at my office, Room 800 Torrey Building, in the City of Duluth, State of Minnesota, on the 11th day of January, A. D. 1899, 560
and having by me been first duly sworn to tell the truth, the whole truth and nothing but the truth, were examined orally upon questions propounded to them by the solicitors for the respective parties, and that the said questions and answers of said witnesses thereto were, pursuant to stipulation of the counsel for the respective parties, taken down stenographically by me, and were afterwards written out by me personally.

I further certify, that all objections to questions propounded to witnesses, and the answers thereto, other than as to the form of questions, were, by agreement between the counsel for the respective parties, reserved, and may be 561
made on the reading of this deposition at the hearing of said cause as fully, and with the same effect, as though made at the time and noted by me, except as to documentary evidence.

I do futher certify, that the Exhibits introduced in evidence as hereinbefore enumerated, are hereunto annexed, marked Exhibits from "A" to "Z" respectively, both inclusive and from "A. A." to "A. D." respectively, both inclusive, and that all the same were received without objection.

And I further certify, that the signatures by the respective witnesses to their respective depositions were waived by the solicitors for both parties.

I further certify, that the said depositions were taken pursuant to the notice hereto attached.

In witness whereof, I have hereunto set my hand and official seal at the City of Duluth in the County of St. Louis and State of Minnesota, this 12th day of March, in the year of our Lord one thousand eight hundred and ninety-nine.

562

(Notarial Seal)

Harry H. Lemant
Notary Public,
St. Louis County, Minnesota.

Notary's fees	$10.00
Oaths	1.25
264 folios at 20c	52.80
Copies	26.40
Postage	.22
	$90.67

---

563 United States Circuit Court, District of Minnesota, Fifth Division. In Equity

J. Murphy, George O. Robinson, Elisha H. Flinn, and Temple E. Dorr, Complainants,

vs.

P. H. Kirwan, as United States Surveyor General for the District of Minnesota, and Thomas H. Croswell, Defendants.

---

564 Deposition of Thomas H. Croswell, taken on behalf of the defedant by agreement of parties, before H. H. Horn, Esq., Notary Public, in the Federal Building, St. Paul, Minnesota, on the 27th day of April, A. D. 1899, with the stipulation made at said time between the parties that said deposition may be incorporated in and made a part of the testimony in the above entitled case, with the same force and effect as if the same had been taken upon regular notice, and in all other respects in compliance with the rules of Court.

H. M. Stanford, Esq., appeared on behalf of the complainants.

Robert G. Evans, Esq., U. S. District Attorney, appeared on behalf of the defendants.

THOMAS H. CROSWELL, a witness produced and sworn on the part of the defendants, testifies as follows:

EXAMINATION IN CHIEF.

BY MR. EVANS.

Q. Where do you reside? 565
A. St. Paul.
Q. What is your profession?
A. Civil Engineer and Surveyor.
Q. How long have you been practicing that profession, been actively engaged in it?
A. About 12 years.
Q. You are one of the defendants in this case?
A. Yes.
Q. I present to you a map which I will designate, and have the same marked as Defendant's Exhibit 1, have you seen this map before?
A. Yes, sir. 566
Q. Who made it?
A. I made the map.
Q. What does it represent, what section and towns does it represent?
A. It represents the two northern tiers of sections of township 7 north, range 17 west.
Q. Based on what?
A. On the surveys of the north township line and the east and west township line, according to the Patton survey.
Q. I see upon this map certain lines in black, what are they intended to represent?
A. They represent the subdivisions of the township, pro- 567 portioning out the distances across the full length of the township according to the survey in the plat of Mr. Bailey, and the location of Ely Lake in the plat of Mr. Bailey.
It is admitted between counsel that the plat of Mr. Bailey referred to by the witness is Complainant's Exhibit "D."
Q. What do the red lines indicate?
A. The red lines indicate a survey of the township measuring each mile north and south 80 chains from the proper corner at the south township boundary; and the east and

west line the proper distance, according to the Howe survey from the east township line.

Q. Now take the south red line indicated upon this map, and what reference does it bear to the south line of the township?

A. It is practically parallel to it.

Q. Practically parallel to it?

A. Yes, sir.

Q. And what distance from it?

A. Four miles; with the exception of the west side, where
568 it is not parallel.

Q. That is, with the exception of the extension of such line beyond the west red line upon the map?

A. Yes, sir.

Q. What is the length of the westerly line of section 9, as you have it indicated in red on this map?

A. 80 chains.

Q. What is the distance from the north red line as indicated on the map to section 9, on a continuation of the west line of the section to the north line of the township?

A. 94.79 chains.

Q. That is from the northwest corner of the section to
569 the north line of the township?

A. Yes, sir.

Q. What is the distance from the northwest corner of section 9, as you have it indicated in red upon this map, to Ely Lake, on the red line?

A. 52 chains by the scale.

Q. The map is drawn to a scale, is it?

A. Yes, sir.

Q. What is the distance from the southwest corner of the northwest quarter of the northwest quarter of section 9, as indicated in red on this map, to Ely Lake?

A. That is 44 chains on the scale.

Q. What is the distance ~~from~~ along the north line, as indi-
570 cated on this map in red, of Lot 7 to its intersection with Ely Lake?

A. 86 chains and 50 links, according to the scale.

Q. Are all these lines of which you have given the distances running in an easterly and westerly direction, are they all practically due east and west lines?

A. Except the last one.

Q. Now we will take the north line as indicated in red of lot number 6, what is the distance on the north line of said lot to where it intersects the lake?

A. It will be 108 chains running over into the other section, section 3.

Q. I notice these two last lines, the distances of which you have given, do not run practically east and west.

A. No, they do not run practically east and west; they have a bend on the section line between section 3 and 4, as shown in red.

Q. Then they are straight lines across section 4?

A. Yes, sir.

Q. They are straight lines you say?

A. Yes, sir. 571

Q. And practically due east and west?

A. No, sir; they are not practically due east and west lines.

Q. On what basis, as far as direction is concerned, are these lines drawn on this map?

A. They are drawn o nthe subdivision of section 4, the east and west lines being the excess over 5 miles in the subdivision of the town.

Q. Then the deflection from the due east and west line, as I understand, is regulated by dividing up equally the excess on the lines where it appears on the north tier of sections. 572

A. Yes, sir.

Q. What is the distance in the east line of lot 4 ~~section 9~~, as indicated on this map, running from the south line of the lot to its intersection with Lake Ely?

A. 57½ chains.

Q. And the same with respect to the east line of lot 3, ~~section 9?~~

A. I will have to change my last answer; it should be 48.70

Q. That is the east line of lot 4?

A. Yes, sir.

Q. And what is the east line of lot 3?

A. 32 chains. 573

Q. That is between lots 3 and 4 in section 9?

A. Yes, sir.

Q. As I understand you, each of these red lines as drawn upon this map, indicates a Government subdivision of a forty acre tract or of a lot?

A. Yes, sir.

Q. What is the distance, as indicated on the red lines upon this map, from the east line of section 4 to its intersection with Ely Lake?

A. 90.20 chains.

Q. What is the distance, as indicated on this map in red lines, from the west line of lot 1, section 4, to its intersection with Ely Lake.

A. 92½ chains.

Q. What is the distance from the centre of the southwest quarter of section 10 due north, to its intersection with Ely Lake?

A. As indicated by the red lines?

Q. Yes, as indicated by the red line on this map.

574 A. 71.40 chains.

Q. What is the distance from the southeast corner of the northeast quarter of section 10 to its intersection with Ely Lake, as shown in red upon this map?

A. 85.40 chains.

Q. What is the distance from the southeast ~~corner~~ quarter of the northwest quarter of the southeast quarter of section 10 to Ely Lake, as shown by the red lines upon this map?

A. 77.60 chains.

Q. What is the distance from the southeast corner of the northeast quarter of the southeast quarter of section 10 to Ely Lake, as shown by the red lines upon this map?

A. 58 chains.

575 Q. What is the distance from the southeast corner of the northwest quarter of the southwest quarter of section 11 along the red line indicated on this map to its intersection with Ely Lake?

A. 92 chains.

Q. What is the distance from the north line of the township along the east line of Lot 2, section 3, as shown in red upon this map, to Ely Lake?

A. 54 chains.

Q. Now the same with the east line of Lot 1, section 3. What is the distance from the north line of the township along the east line of Lot 1, as marked in red upon this map,

576 to Ely Lake?

A. 34.20 chains.

Q. Now I notice two irregular lines running around Ely Lake practically; one is—dotted lines—one in black and one in red. What are they to indicate?

A. They indicate the old Government meander lines, according to the two systems of survey.

Q. When you say, according to the two systems of survey, you refer to what?

A. There is as I stated, the first system, following the

PAGE CUT OFF

Government rule, the Howe survey, in which the north and south lines are 80 chains long, and the east and west lines being the given distances in the Howe notes. That is the red system of survey and the black system is the same as that on Exhibit "D."

Q. That system is a proportioning of the distances across the entire township?

A. Yes, sir; the black lines.

Q. Giving to, each section its proportion of the excess?

A. Yes, sir.

Q. Or shortage? 577

A. Yes, sir; or shortage.

Q. And on the red system you throw all of the excess or shortage into the north and west tiers of sections?

A. Yes, sir.

Q. But not in the north and west tiers of forties?

A. No, sir.

Q. As I understand you, the difference in the two systems is what makes the difference between the black and red lines?

A. Yes, sir.

Q. When you speak of these lines as the meander lines, you mean the meander lines of Ely Lake as shown by the surveys you refer to. 578

A. Yes, sir; as shown by the Government surveys.

Q. You have seen the government plat of this township, have you?

A. Yes, sir.

Q. How does the red line compare with the line as marked by the government, the red meander line, wherein does it differ? How does the red meander line on this plat compare with the meander line on the government plat, and if there is any difference, wherein does it differ?

A. On this plat the red meander lines in sections 9, 10, and 11 would occupy the same position as it does on the government plat. 579

Q. As the meander line does on the government plat?

A. Yes, sir; but in sections 2, 3, and 4 it would occupy an altered position, depending on the excess in length of the line between sections 4 and 5 and sections 3 and 4, and the deficiency in length of the lines between sections 2 and 3 and 1 and 2.

Q. In other words, I understand you have extended the meander line in red on this plat to conform to the excess of distance on the north tier of sections?

A. Yes, sir; the excess or the deficiency.

Q. But is its general course and direction the same?

A. Why, it is approximately the same.

Q. Does it show upon what theory these lines here are drawn?

A. I think so. It does as I understand it.

Q. Is Lake Ely upon this map located the same as upon the map Exhibit "D"?

A. Yes, sir; it is located with reference to the black lines.

580 Q. It occupies the same position on this map as it does on Exhibit "D", the same as on Exhibit "D"?

A. Yes, sir; with reference to the black lines.

Q. Now, with reference to these red lines, the north and south lines south of the south lines of sections 3 and 4, what is their direction?

A. They run practically north and south, according to the Howe survey.

Q. According to the Howe survey.

A. Yes, sir.

Q. In other words, they run parallel to the east line of the township?

581 A. Yes, parallel to the east line of the township.

Q. These figures in red, what do they indicate?

A. That is the distance, the lot area, with reference to the red system of survey; and the black figures refer to the black system of survey.

Q. What do they indicate, distances on the map in chains?

A. Yes, sir; chains and links.

Q. Is the same true of the black figures with reference to the Bailey plat, complainant's Exhibit "D"?

A. Yes, sir.

Q. Have you been upon that tract of land or a portion of

582 it?

A. Yes, sir.

Q. Have you been to some of these corners that are marked, in the north boundary line of the township?

A. Yes, sir.

Q. Do you know the character and the topography of the country?

A. Yes, sir.

Q. Of the sections of land?

A. Yes, sir.

Q. To your own knowledge, have there been surveys made of it within the last three or four years?

A. Yes. At the time I was there in 1896 I saw some lines of survey.

Q. What is the character of the timber upon it as to growth, as to being thick or otherwise?

A. The timber consists of pine, and in with it is a heavy growth of balsam, fir, cedar, birch and spruce. There is considerable tamarack and spruce on the lower land.

Q. What difficulties, if any, are there in the way of making a survey of the township? 583

A. The roughness of the country.

Q. Any other difficulties?

A. The timber, thick timber would oppose some difficulty.

Q. Such being the difficulties, you would have to survey with more care and take more time?

A. Yes, sir; it would take a longer time, and it would have to be carefully done.

Q. With your experience could that survey be made there, and properly made, without any material injury to the soil or to the growing timber?

A. Yes, sir.

Counsel for defendants now introduce in evidence the map that has been referred to in and used in connection with the testimony of this witness, and the same is marked Defendant's Exhibit 1. 584

CROSS EXAMINATION.

BY MR. STANFORD:

Q. I understood you to say in your direct examination that all excess or shortage in this township appeared in the northern tier of sections. No, the excess appears in the northern tier of sections, and the shortage in the western tier of sections. 585

A. No.

Q. Will you state what you did say?

A. I said the excess or deficiency was thrown in the north and west tiers, in the red system of survey.

Q. In the red system of survey?

A. Yes, sir.

Q. That is the survey that differs from the survey Complainant's Exhibit "D"?

A. Yes, sir.

Q. How about the subdivision of that northern tier of sections under the red system?

A. The subdivision of the north tier of sections is divided according to the distances on the north and south lines. It is proportioned according to the distances given in the Howe survey on those lines.

Q. That is, the quarter post is set up forty chains from the south line of the section.

A. No, sir.

Q. When you subdivided these sections, giving to each
586 subdivision its proportionate share of the excess or shortage?

A. Yes, sir.

Q. Why does this refer to this one tier of sections and not to the remainder of the township?

A. It refers to two tiers, both on the north and the west.

Q. Why does it refer to the north and west tier of sections, and not to the remainder of the township?

A. Of course I can go into that question without reference to the map. The map, as far as this map is concerned, is made that way.

Q. That is the red system of survey?

587 A. Yes, sir. I can go on and explain the theory.

Q. I want you to answer my qestion,.that is all.

A. The map is made to throw the excess or deficiency in the north and west tiers. That is in distinction to your theory. You can make still another one if you want to.

Q. I don't care to go into that theory, but I want to know the theory upon which you base your red system of survey on.

A. Well, the theory would be this: That the error on this, on the survey of that township was all on the north and west sides. That is, any one purchasing land from the goverment in that township would buy it with the under-
588 standing that these sections up to five miles were not full sections.

Counsel for complainants moves to strike out the last answer of the witness as not responsive to the question.

Witness—I don't see what you want me to answer any further than that.

Q. What is the principle you used in throwing the remainder of the township, not the west side, in setting the quarter posts on these sections 3 and 4, and 4 and 5?

A. That the error in the subdivisions of the township,

comparing the Howe system and the actual facts in the case, is in the north tier.

Q. That is in accordance with instructions you receive from the Interior Department, is it?

A. I didn't receive istructions from the Interior Department.

Q. In your contract, your general contract, the instructions in your contract, your general contract, the instructions in your contract?

A. No, sir, understand this map and my instructions are two different things. This is not in accordance with 589
the instructions I received in my contract.

Q. Whose instructions is this map? According to whose instruction is that map made?

A. Well—

Q. I mean who instructed you to make this map in that plan?

A. I was instructed by Mr. Evans to make this map.

Q. Upon what theory?

A. To show—

Q. On what theory did he tell you to make that may?

A. To show a comparison between the different theories?

Q. A comparison between the different theories? 590

A. Yes, sir.

Q. Then that is all that map is for, simply to show a comparison between the different theories?

A. I don't see that it is for any other purpose.

Q. Have you done any work on the ground, or any sufficient amount of work to enable you to locate that lake there?

A. No, sir.

Q. Your plat is made from field notes and estimates entirely?

A. Yes, sir, it is made from the Patton survey, and Exhibit "D".

591

MR. EVANS:

And the Howe notes for the length of the lines?

Witness: Yes, sir.

Mr. Evans: The red lines are made on the Howe notes?

Witness: Yes, sir, the red lines are made on the Howe notes.

Q. Is it true that all east and west lines between sections are 80 chains lines in the field?

A. No, sir.

Q. You have assumed on your map that that is true, haven't you?

A. No, sir.

Q. How is that?

A. No, sir.

Q. The map is based upon that theory?

A. No, sir.

Q. How do you get your lines that far west of the black lines then?

A. As I stated before in my answer, these red lines were
592 based on the Howe survey, the distances that are given on the map.

Q. The Howe field notes?

A. Yes, sir.

Mr. Evans: When you say the Howe survey, you mean the Howe field notes?

A. Yes, sir.

Q. The field notes in the Howe survey, do they make them 80 chains?

A. Not all of them, no sir.

Q. You have run your east and west line parallel with the east boundary of the township?

593 A. I have not run my east and west lines in the field at all. But the position these lines occupy on the plat is practically parallel to the east and west boundary, they should be. But the distances of the deficiency, if any, in the Patton notes would give exactly whether they are or not.

Mr. Evans: I understand you to say, you intended to run these lines parallel with the east boundary of the township?

Witness: Yes, sir; with the east boundary of the township.

Mr. Evans: And the other parallel with the south boundary of the township up to five miles?

Witness: Yes, sir.

Q. I understand you to say your red lines on that plat are
594 made according to the Howe field notes?

A. Yes, sir; the distances on the east and west lines.

Q. Just the distances on the east and west lines?

A. Yes, sir.

Q. Nothing else?

A. The courses are practically the same also.

Q. The courses are practically the same?

A. Yes, sir.

Q. Now, Mr. Croswell, if you draw parallel lines to the eastern boundary of the township starting from the south-

ern boundary of the township and running northerly, your line will become practically the same as the red line on that plat, would they not?

A. Following the Howe field notes, they would

Q. They would, following the Howe field notes?

A. Yes, sir.

Q. Are you acquainted with the northwest portion of that township and the properties that are located there?

A. I know a little about them.

Q. You know there is considerable mining, and considerable amount of mining property there? 595

A. Yes, sir.

Q. You know the lines have been established according to the Patton surveys?

A. I don't know the corners now.

Q. If there should be a new system of survey introduced, different from and contrary to that upon which the mining lines have been established, it would have a very serious effect, would it not, upon values?

Objected to by defendant's counsel as immaterial, incompetent and irrelevant, and as not a part of the cross examination.

A. Why, I suppose if another system of survey changes 596 the lines from the way they may have them established now it would probably raise the question of values between different owners.

Q. And raise the question of lines between valuable mining properties?

A. Yes, sir; I should think so.

Q. You know that as a matter of fact from the nature of the properties in that part of the township?

A. From what I know of the properties there, I should think that would be the fact, yes, sir.

Q. Then there are objections to re-running the lines there, other than the cutting of timber, are there not, in making the survey? 597

A. Well, there are in that respect, yes, sir.

Q. In making an accurate survey of that portion of the towship, could you don much without running transit lines?

A. The question—Yes you could make an accurate survey with a solar instrument, but not to the same extent that you would with a transit.

Q. How wide would you have to cut the timber in locating the lines there on the ground, how broad must you have your lines in order to make an accurate survey?

A. Of course there are different degrees of accuracy. If you pursued the government rule of accuracy you wouldn't have to do any cutting to speak of.

Q. In a case where there are a good many hundred thousand dollars in values which may be affected, what system of survey would it be necessary to pursue in order to acquire the accuracy that would be deemed necessary in such a case?

A. The greatest degree of accuracy would be arrived at by the use of a transit, and making a transit survey.

598 Q. Could you make a transit survey of that territory, up there, without cutting a considerable amount of timber, valuable timber?

A. You wouldn't have to cut very much valuable timber I don't think.

Q. Isn't it heavily wooded all through there?

A. Yes, sir; it is heavily wooded.

Q. And somewhat rolling?

A. Yes, sir; somewhat rolling.

Q. Could you make a transit line of such a description as that, without cutting at least six feet wide?

A. Yes, sir.

599 Q. What would be the narrowest space in your opinion that would have to be cut in order to get a proper transit line?

A. Well, it all depends upon the degree of carefullness you use in cutting the line.

Q. I mean a high degree of carefullness, such as should be used where large values are at stake.

A. If you use great care. I make a difference between carefullness in cutting the timber, and carefullness in making the survey. But by taking care to run your line so as not to damage your timber more than possible, you can get through with a line not to exceed two feet wide.

600 RE-DIRECT EXAMINATION.

BY MR. EVANS:

Q. What injury would necessarily be occasioned to the merchantable timber on that tract of land in making a survey of it in the manner called for in your contract?

A. I don't think we would do any damage whatever to the merchantable timber according to my contract.

Q. Are there any valuable mining properties embraced

in the territory which you were to survey under your contract?

A. No, sir; not that I know of.

Q. You don't know that there is any mineral there?

A. Not that I know of.

RE-CROSS EXAMINATION.

BY MR. STANFORD:

Q. You know that section 5, has considerable valuable mining properties on it, don't you, in this town? 601

A. Yes, sir.

Q. Your survey commences on the east line, and includes the east line of section 5?

A. Yes, sir.

Q. And the setting of the south east corner of section 5?

A. Yes, sir; a temporary corner, yes.

Q. Could you run a survey or make a survey of the east line of that section, without surveying the entire section? Could you get the east line without surveying the entire section?

A. You wouldn't have to go round the north or west side. You asked me, according to my instructions; I think you 602 are under a misapprehension as to what they were. I was not required to make any survey, except the south and east sides of that, according to my instructions.

It is here stipulated between counsel that Exhibit No. 2 as set out in the answer of defendants, being the order for the survey, and Exhibit "D" attached to said answer, being the instructions under which the survey was to be made, are correctly set out in said answer and that the same may be used on the trial of this case by either party, with the same force and effect as if they had been introduced in evidence and made part of the case. 603

United States of America,
District of Minnesota.

I hereby certify that at the time and place mentioned in the caption hereof, I was attended by the parties therein named, and that Thomas E. Croswell, a witness of lawful age appeared before me in the presence of the said parties,

and before testifying was duly cautioned and sworn to testify to the truth, the whole truth, and nothing but the truth, that his deposition was then taken by me in the words and figures hereinbefore set forth, and that after reading over the same carefully, the witness subscribed the said deposition as being correct, and stated that the same was correct, and said deposition is herewith returned into Court as being the true deposition of said deponent, Thomas E. Croswell.

In witness whereof I have hereunto set my hand and seal the 2nd day of May, A. D. 1899.

604

N. HARCOURT HORN,
Notary Public.

(Seal)

COMPLAINANTS EXHIBIT "C."

FIELD NOTES

OF THE SURVEY OF THE

EXTERIOR AND SUBDIVISION LINE

—OF—

TOWNSHIP NO. 57 NORTH, RANGE NO. 17 WEST, 607
OF THE 1ST. PRINCIPAL MERIDIAN,
MINNESOTA.

SURVEYED BY HENRY S. HOWE, DEPUTY SURVEYOR. UNDER HIS CONTRACT OF APRIL 26, 1876.

SURVEY COMMENCED JUNE 20, 1876.

SURVEY COMPLETED JUNE 30, 1876.

608

South Exterior of Twp. 57 N. Range 17 W. 4th P. M.

From the Cor. to Twps. 56 & 57 N. Ranges 16 & 17 W.
which is a post from which
Tamarac 5 N. 25 W. 33 lks
Tamarac 5 N. 43 E. 73 lks
Thence I run
West on South side of Section 36.
Var. 10 degrees 12 minutes E.

37.00 Leave Swamp N. E. unfit for cultivation.
40.00 Set ¼ Sec. Cor.
609
Aspen 9. N. 44. W. 33 lks.
Aspen 8. N. 26. E. 42. lks.
43.00 Enter same swamp W. N. W.
75.00 Leave Swamp S. W.
80.00 Set post corner to Sections 35 & 36.
Tamarac 7. N. 50 W. 8 lks.
Tamarac 7. N. 49. E. 6. lks.
Surface gently rolling. Soil 2d rate.
Black, Pine, Tamarac, Spruce, Birch & Aspen.
Some good white & yellow pine.

West on south side of section 35.
Var. 10 degrees 30 minutes E.

40.00 Set ¼ Section corner.
Cedar 7. N. 41. W. 15 lks.
Yellow pine 15. N. 52. E. 56 lks.

54.24 Intersect St. Louis River 1.90 wide runs S. and set Meander Post.
White Pine 10. S. 43. E. 7. lks.
White Pine 10. N. 44. E. 6 lks.
Over river on line. Offset South 60 links. M. C. across river bears N. 72½ E. Dist. 190 links.

610

56.14 Set Meander Corner on Right bank.
Birch 10. N. 5. W. 7 links.
Birch 6. S. 4. E. 20. links.

60.00 Enter burned timber N. E.

80.00 Set post corner to Sections 34 & 35.
Yellow Pine 16. S. 1 E. 230 lks.
Yellow Pine 16. S. 18 W. 235.
Yellow Pine 16. S. 18 W. 235. lks.
Surface level & wet. Soil 2d rate.
White & Yellow Pine, Aspen & Birch.

---

611 West on south side of section 34.
Var. 10 degrees, 15 minutes E.

1.00 Enter Swamp. W. S. W. & N. W.

40.00 Set ¼ Section post.
Spruce 4. N. 14. E. 12 links.
Tamarac 5. N. 60. W. 8 links.

70.00 Leave Swamp N. W. unfit for cultivation. Peat.

80.00 Set post corner to Sections 33 & 34.
White Pine 24. N. 20 W. 35. lks.
Tamarac. 6. N. 37. E. 38 lks.
Surface level Wet Soil. Clay 2d rate.
Timber, fire killed & much fallen.

612 ---

South Exterior of Twp. 57. N. R^a^nge 17. W. 4th P. M.

West on South side of section 33.
Var. degrees 10 E.

7.90 Stream 6. lks. wide runs south.

40.00 Set ¼ section corner.
Spruce 5. N. 32. E. 65 lks.
Spruce 7 N. 17 W. 89 lks.

43.00 Enter swamp N. E. & S. W.
80.00 Set post corner to sections 32 & 33.
Tamarac 7 N. 74 E. 169 lks.
Tamarac 6 S. 80 W. 139 lks.
Surface flat & wet. Good grass land. 2d rate.
Timber, fire killed, Tamarac & Spruce.

West on south side of section 32.
Var. 9 degrees 36 minutes E.
9.00 Le^ave swamp W. S. W. unfit for cult. 613
35.00 Enter swamp S. W.
40.00 Set ¼ Sec. Cor.
Spruce 7 N. 55 E. 43 lks.
Tamarac 6 N. 89 W. 213 lks.
60.00 Leave Swamp S. W.
80.00 Set post corner to Sections 31 & 32.
Yellow Pine 9 N. 34 E. 16 lks.
Yellow Pine 8 N. 57 W. 40 lks.
Surface level, wet. Soil sandy 2d rate.
Timber mostly fire killed, Pine, Birch & Spruce.

South and West Exterior of Twp. 57 N. Range 17 W. 4th P. M. 614

West on South side of section 31.
Var. 9 degrees 6 minutes E.
40.00 Set ¼ Sect. post.
Black Ash 6 N. 7 E. 61 lks.
Black Ash 6 N. 42 W. 56 lks.
80.00 Set post corner to selections 31 & 36 between Ranges 17 & 18.
Elm 17 N. 29 W. 87 lks.
Elm 8 N| 5 E. 62 lks.
Surface gently rolling. Soil sandy clay 2d rate.
Timber mostly fire killed Aspen, Spruce, Birch, B. Ash & Elm. 615
George R. Stuntz, July 12th, 1867.

North along the East boundary of Section 36.
Var. 8 degrees 15 Minutes E.
8.00 Creek 25 lks wide runs S. W.
40.00 Set a post for ¼ Sec. Cor. from which
Fir 3 S. 48 E. 40 lks. dist.
Fir 3 S. 50 W. 45 lks. dist.

60.00 Enter Swamp brs E. & W.
80.00 Set a post for Cor. to Sects 25, 36, 30 & 31 from which.
T^a^m. 8 N. 75 E. 50 lks dist.
Tam 5 N. 15 W. 37 lks dist.
Spruce 6 S. 30 W. 45 lks dist.
Tam. 8 S. 65 E. 38 lks dist.
Land rolling. Soil 3d rate.
Timber, Spruce, Tam, Birch, Cedar & Aspen.
Undergrowth the same.

616

South and West Exterior of Twp. 57 N. Range 17 W. 4th P. M.

North on East boundary of Section 25.
Var. 8 degrees 15 minutes E.

40.00 Set post for ¼ Sec. Cor. from which.
Tam. 6 S. 55 W. 25 lks.
Spruce 6 N. 38 E. 25 lks.
43.00 Stream 15 lks. runs West.
80.00 Set post for Cor. to Sects 24, 25, 19 & 30 from which
Cedar 10 S. 15 W. 12 lks.
617 Cedar 10 S. 15 W. 12 lks.
Ash 5 N. 76 E. 32 lks.
Birch 10 N. 47 W. 15 lks.
Land level & wet. Soil 3d r^a^te.
Timber, Spruce, Tam & Cedar. Undergrowth the same.

West Exterior of Township 57 N. ange 17 W. 4th P. M.

North on East bondary of Section 24.
Var. 8 degrees, 30 minutes E.

40.00 Set post for ¼ Sec Cor from which
618 Spruce 8 S. 36 W. 26 lks.
Fir 4 N. 10 E. 38 lks.
46.00 Leave Swamp brs. E. & W.
80.00 Set post for Cor. to sections 13, 14, 18 and 19 from which
Plk. Pine 18 N. 30 W. 75 lks.
Butternut 6 N. 35 E. 60 lks.
Cedar 14 S. 40 E. 10 lks.
Nor. Pine 16 S. 70 W. 80 lks.
Land rolling. Soil 3d rate.

Timber mostly fire killed. Spruce, Tam, Birch, Cedar & Scattering Pine.
Undergrowth, White Fir, Aspen & Alder.

North on east boundᵃry of section 13.
Var. 9 degrees E.

11.65 Set post on south shore of lake for Cor. to fractl. sects. 13 & 18 from which
Fir 4 S. 38 E. 26 lks.
Birch 6 S. 60 W. 19 lks.
To ascertain the distance across the lake on this line I run a base East 6 chains to a point from which the flag in line on North shore of Lake bears N. 12 degrees 45 mintes W. I find the distᵃnce to be 26.52 chs. 619

33.17 Set a post on South Shore of Lake for Cor. to fractional Sects 13 & 18 from which
Tam. 6 N. 48 E. 46 lks.
Tam 7 S. 8 E. 60 lks.

80.00 Cedar tree 4 in. dia. for Cor. to Sects. 12, 13, 7 & 18 from which
Maple 24 N. 43 E. 21 lks.
Birch 14 N. 50 W. 26 lks. 620
Cedar 5 S. 60 W. 23 lks.
Birch 6 S. 20 E. 20 lks.
Land rolling. Soil 3d rate.
Timber: Birch, Spruce, Cedar, Tam. & Scattering of Pine.
Undergrowth, Fir, Aspen & Alder.

West Exterior of Township 57 N. Range 17 W. 4th P. M.

North on the East bondary of section 12.
Vᵃr. 9 degrees, 15 Minutes E.

40.00 Set post for ¼ Sec. Cor. from which 621
Tamarac 6 N. 38 W. 40 lks.
Nor. Pine 8 N. 52 E. 25 lks.

80.00 Set a post for Cor. to Sects 1, 12, 6 & 7 from which
edar 12 N. 10 E. 35 lks.
Cedar 8 N. 20 E. 60 lks.
Pine 12 S. 50 W. 28 lks.
Pine 20 S. 70 E. 43 lks.
Land rolling. Soil 3d rate.
Timber: Birch, Spruce, Tam., Cedar & Scatter-

ing Pine, Mistly killed by fire. Undergrowth, Alder, Aspen & Willow.

North on the East boundary of Section 1.
Var. 9 degrees 20 mintes E.

32.00 Creek 10 lks. runs West.

40.00 Set a post for ¼ Sec. Cor. from which
Sprce 5 S. 58 W. 20 lks.
Ceda. 5 S. 20 E 15 lks.

80.00 Set a post for Cor. to Twps. 57 & 58 N. Ranges 17
622 & 18 W. from which
Birch 7 N. 88 W. 22 lks.
Birch 5 S. 35 W. 12 lks.
Birch 8 N. 50 E. 13 lks.
Birch 8 S. 70 E. 25 lks.
Land rolling. Soil 3d rate.
Timber: Birch, Spruce, Cedar & Scattering Pine.
Undergrrowth the same & Alder.
(West Exterior was surveyed by Henry S. Howe)
June 3, 1876.

East Exterior of Township 57 N. Range 17 W.
4th P. M.

623

Beginning at the post on the 7th correction line, the Cor. to Twps. 56 & 57 N. Ranges 16 & 17 W. I run North along the East bondary of Section 36;
Var. 10 degrees 12 minutes E.

9.00 Leave swamp brs. E. & W.

25.00 Enter swamp brs. E. & W.

37.50 Leave swamp brs. E. & W.

40.00 Set a post for ¼ Sec. Corner.
Nor. Pine 10 N. 85 E. 23 lks.
Nor. Pine 5 N. 86 W. 7 lks.

70.00 Enter swamp brs. E. & W.

624 75.50 Leave swamp brs. E. & W.

80.00 Set post for Cor. to sections 25, 36, 30 & 31 from which
Birch 8 S. 9 W. 31 lks dist.
Birch 7 N. 64 W. 36 lks dist.
Aspen 18 N. 24 E. 25 lks dist.
Birch 7 S. 5 E. 25 lks dist.
Land rolling. 3rd rate.
Timber: Birch, Spruce, Tam. & Aspen.
Undergrowth the same.

North along the East boundary of section 25.
Var. 10 degrees 12 mintes E.

6.50 Enter swamp brs. E. & W.
15.50 Leave swamp brs. E. & W.
31.50 Enter swamp brs. E. & W.
40.00 Leave swamp brs. E. & W. set post for ¼ Sec. Cor. from which
Aspen 8 N. 35 W. 34 lks.
Spruce 12 S. 86 E. 16 lks.
52.15 Set post on south bank of St. Louis river for Cor. to fractl. Secs. 25 & 30 frrom which 625
Birch 10 S. 86 E. 39 lks.
Elm 6 S. 31 W. 18 lks. River runs west.
To ascertain the distance across river on this line I run a base East 50 links to a point from which the flag in line on North bank bears N. 18 W. I find the distance across to be 1.54 chains.
55.69 Set post on North bank of river for Cor. to fracts. Sects. 25 & 30 from which
Aspen 12 N. 71 W. 56 lks.
Birch 6 N. 37 E. 32 lks.
60.00 Stream 20 lks runs S. W.
76.50 Enter swamp brs. E. & W.
80.00 Set post Cor. to Sections 24, 25, 19 & 30 from 626 which
Spruce 5 S. 7 E. 60 lks.
Spruce 6 S. 20 W. 30 lks.
Tam. 3 N. 10 W. 23 lks.
Tam. 3 N. 28 E. 50, lks.
Land level. Soil 3rd rate.
Timber, Spruce, Tam., Birch, Cedar & Aspen.
Undergrowth, Aspen & Alder.

East Exterior of Township 57 N. Range 17 W. 4th P. M.

North along the East boundary of Section 24. 627
Var. 10 degrees 12 Minutes E.

19.00 Leave swamp bears E. & W.
30.00 Enter swamp bears E. & W.
31.50 Leave swamp bears E. & W.
40.00 Set post for ¼ Sec. Cor. from which.
Nor. Pine 7 N. 45 W. 15 lks.
Nor. Pine 8 S. 23 E. 31 lks.
68.50 Creek 4 lks runs N. E.
80.00 Set Post Cor. to Sects 13, 24, 18 & 19 from which

Spruce 5 N. 11 E. 22 lks.
Spruce 3 N. 39 W. 18 lks.
Spruce 4 S. 41 W. 19 lks.
Spruce 5 S. 36 E. 32 lks.
Land level. Soil 3rd rate.
Timber, fire killed & fallen.
Undergrowth, Alder & Nor. Pine.

North on the East boundary of Section 13.
Var. 10 degrees E.

628
10.00 Enter swamp bears E & W.
40.00 Set post for ¼ Sec. Cor. from which
Tam. 3 N. 49 W. 22 lks.
Tam. 5 S. 24 E. 10 lks.
80.00 Set post corner to Sections 12, 13, 7 & 18 from which
Spruce 6 N. 12 W. 23 lks.
Tam. 8 N. 40 E. 98 lks.
Nor. Pine 10 S. 45 E. 80 lks.
Nor. Pine 6 S. 45 W. 40 lks.
Land level. Soil 3rd rate.
Timber, fire killed & fallen.
629 Undergrowth, Nor. Pine & Alder.

North Exterior of Township 57 N. Range 17 W. 4th P. M.

Aspen 15 S. 10 W. 10 lks.
Birch 8 5 80 E. 20 lks.
Land rolling. Soil 3rd rate.
Timber: Birch, Spruce, Cedar, Maple & Pine.
Undergrowth, same &

N. 89 degrees 53 Minutes E. on a true line between Sections 4 & 33.

630
Var. 9 degrees 30 minutes E.
26.00 Var. 80 West.
28.00 Var. 50 East.
40.00 Set a post for ¼ Sec. Cor. from which
Birch 7 N. 82 W. 12 lks.
Aspen 12 S. 25 W. 10 lks.
43.00 Var. 9 degrees 30 Minutes E.
67.00 Var. 12 E.
80.00 Set a post for Corner to Sections 3, 4, 33 & 34 from which

Birch 10 N. 15 E. 28 lks.
Birch 5 N. 20 W. 25 lks.
Birch 8 S. 50 W. 10 lks.
Fir. 4 S. 20 E. 60 lks.
Land rolling. Soil 3d rate.
Timber: Birch, Cedar, Spruce, Maple & Pine.
Undergrowth, Hazel & Maple.

North Exterior of Township 57 N. Range 17 W. 4th P. M.

631

N. 89 degrees 53 mintes E. on a true line between sections 3 & 34.

Var. 9 degrees 30 minutes.

40.00 Set a post for ¼ Section Corner from which
Spruce 10 S. 28 W. 40 lks.
Birch 6 N. 16 W. 30 lks.

40.96 Set a post on N. W. shore of Cedar Lake for corner to fractional
Sections 3 & 34 frrom which
Birch 12 S. 36 W. 32 lks.
Fir 4 N. 28 W. 27 lks.
The distance across the lake on this line is 61.70 chains. 632
The corner to Sections 2, 3, 34 & 35 falling in the lake cannot be set.
Land rolling. Soil 3d rate.
Timber: Birch, Spruce, Cedar & Pine.
Undergrowth, Alder & Fir.

N. 89 degrees 53 mintes E. on a true line between Sections 2 & 35.

Var. 9 degrees 30 minutes E.

21.96 Set a post on the N. E. shore of lake for corner to fractional
Sections 2 & 35 from which 633
Pine 5 S. 68 E. 4 lks.
Birch 8 N. 19 W. 20 lks.

40.00 Set a post for ¼ Section Cor. from which
Aspen 20 S. 45 W. 6 lks.
Cedar 6 N. 80 W 12 lks.

80.00 Set a post for Corner to Sections 1, 2, 35 & 36 from which
Cedar 5 S. 49 W. 17 lks.
Cedar 4 S. 25 E. 19 lks.

Birch 5 N. 32 E. 9 lks.
Cedar 5 N. 6 W. 13 lks.
Land rolling. Soil 3d rate.
Timber: Birch, Spruce, Cedar & Pine.
Undergrowth, Hazel & Alder.

N. 89 degrees 53 minutes E. on a true line between sections 1 & 36.

Var. 9 degrees 30 minutes E.

40.00 Set a post for ¼ section corner from which
634 Fir 4 S. 30 W. 21 lks.
Pine 10 N. 30 W. 27 lks.
80.00 The established corner to Twps 57 & 58 N. Ranges 16 & 17 West.
Land rolling. Soil 3d rate.
Timber: Birch, Spruce, Cedar, Aspen & Pine.
Undergrowth, Hazel & Alder.

June 19th, 1876.
(North Exterior surveyed by Henry S. Howe.)

Subdivision of Township 57 N. Range 17 W. 4th P. M.

635

Var. 10 degrees 20 minutes E.

40.00 Set a post for ¼ Sec. Cor. from which
Tam. 7 N. 10 E. 35 lks.
Tam. 8 N. 25. W. 40 lks.
40.20 Enter swamp brs. E. & W.
55.50 Leave swamp brs. E. & W.
68.02 Left bank St. Louis river, East. Set a post for ocrner to fractional Secs. 35 & 36 from which
Fir 8 S. 59 E. 12 lks.
W. Pine 18 S. 41 W. 13 lks.
To ascertain the distances across the river on this line, I run a base N. 47 degrees 51 minutes E.
636 63 lks. to a point from which the flag in line on right bank bears N. 17 degrees 12 minutes west, I find the distance to be 1.39 chains.
69.95 Set a post on a right bank for corner to fractional sections 35 & 36 from which
W. Pine 20 N. 23 E. 6 links.
Fir 8 N. 66. W. 11 lks.
80.00 Set a post Cor. to Sections 25, 26, 35 & 36 from which
Fir 5 N. 14 E. 32 lks.

Blk Pine 7 N. 34 W. 20 lks.
Fir 3 S. 25 W. 16 lks.
Birch 8 S. 65 W .20 lks.
Land rolling. Soil 3d rate.
Timber: Spruce, Birch, Aspen, Tam., Maple & Pine.
Undergrowth, Aspen, Fir & Alder.

East on a random line between sections 25 & 36.
Var. 10 degrees E.

4.42 Right bank St. Louis river, South, set a post for 637
Cor to Fractional Sections 25 & 36 from which
Birch 5 S. 85 W. 22 lks.
Pine 5 N. 22 E. 11 lks.
To ascertain the distance across the river on this line, I run a base N. 48 E. 1.00 chains to a point from which the flg in line on left bank brs. S. 68 degrees 40 minutes E. I find the distance to be 2.46 chains

6.88 Set a post on left bank for Cor. to fractl. Sects. 25 & 26 from which
Birch 6 N. 80 E. 20 lks.
Birch 8 S. 10 W. 12 lks.
638

40.00 Set temp. ¼ Sec. Cor.

80.10 Intersect East boundary line at corner to sections 25 & 36 from which corner I run
West on a true line between Sections 25 & 36.

40.05 Set a post for ¼ Section corner from which
Aspen 10 N. 52 W. 16 lks.
Birch 5 S. 26 E. 26 lks.

80.10 The Corner to sections 25, 26, 35 & 36.
Land rolling. Soil 3d rate.
Timber: Birch, Spruce, Aspen, Tam., Maple & Pine.
Undergrowth the same & Fir.

639

North between Sections 25 & 26.
Var. 10 degrees E.

6.30 Creek 6 lks. runs S. E.

34.00 Enter swamp brs. N. E. & S. W.

40.00 Set a post for ¼ Sec. or. from which
Tam. 3 N. 25 W. 16 lks.
Tam. 4 N. 18 E. 10 lks.

80.00 Set a post for Corner to sections 23, 24, 25 & 26, frrom which

Spruce 6 N. 55 E. 11 lks.

Subdivision of Township 57 N. Range 17 W. 4th P. M.

Tam 4 N. 25 W. 20 lks.
Tam. 4 S. 19 W. 36 lks.
Tam. 3 S. 40 E. 18 lks.
Land level. Soil 3d rate.
Timber: Spruce, Tam., Birch & Cedar.
640 Undergrowth the same.

East on a random line betwen Sections 24 & 25.
Var. 10 degrees E.

40.00 Set temp. ¼ Sec. Cor.
80.35 Intersect East boundary 24 lks North of Cor. to Sections 24 & 25 from which corner I run.
N. 89 degrees 50 minutes W. on a true line between Sections 24 & 25.
40.17 Set a post for ¼ Sec. Cor. from which
Tam. 4 N. 10 E. 21 lks.
Tam. 3 S. 56 W 13 lks.
641 80.35 The corner to sections 23, 24, 25 & 26.
Land level. Soil 3d rate.
Timber, small Spruce & Tam.
Undergrowth the same.

North between sections 23 & 24.
Var. 9 degrees 45 minutes E.

40.00 Set a post for ¼ section Cor. from which
Spruce 3 N. 31 W. 5 lks.
Spruce 4 N. 10 E. 7 lks.
41.00 Leave swamp brs N. W. & S. E.
642 80.00 Set a post for corner to Sections 13, 14, 23 & 24 from which
Tam. 8 N. 50 W. 50 lks.
Tam. 10 N. 22 E. 75 links.
Birch 8 S. 45 E. 65 links.
Birch 12 S. 25 W. 100 links.
Land level. Soil 3d rate.
Timber: Spruce, Tamarac, Birch & Aspen, mostly fire killed.
Undergrowth, Aspen, Fir & Norway Pine.

Subdivision of Township 57 N. Range 17 W. 4th P. M.

East on a random line between sections 13 & 24.
Var. 9 degrees 50 minutes E.

40.00 Set temp. ¼ Sec. Cor.
80.23 Intersect East boundary 30 lks. North of Corner to Sections 13 & 24 from which corner I run.
N. 89 degrees 47 minutes W. on a true line between sections 13 & 24. 643
40.12 Set a post for ¼ Sec. Cor. from which.
Birch 8 N. 70 E. 22 lks.
Cedar 6 S. 28 W. 5 lks.
80.23 The Corner to Sections 13, 14, 23 & 24.
Land rolling. Soil 3d rate.
Timber: Birch, Spruce, Tamarac & Cedar, nearly all fire killed.
Undergrowth, Aspen, N. Pine & Fir.

North between Sections 13 & 14.
Var. 9 degrees 40 minutes E.

30.00 Enter swamp brs. N. E. & S. W. 644
40.00 Set a post for ¼ Sec. Cor. from which
Spruce 4 N. 10 W. 22 lks.
Spruce 3 N. 46 E. 18 lks.
50.00 A creek 5 lks wide runs west.
80.00 Set a post for Corner to Sections 11, 12, 13 & 14 from which
Tam. 3 N. 41 E. 17 lks.
Tam. 5 N. 74 W. 12 lks.
Tam. 3 S. 36 W. 14 lks.
Tam. 3 S. 29 E. 8 lks.
Land level & wet. Soil 3d rate.
Timber, Small Spruce & Tamarac.
Undergrowth, the same. 645

June 20th, 1876.

East on a random line between Sections 12 & 13.
Var. 9 degrees 40 Minutes E.

40.00 Set temp. ¼ Sec. Cor.
80.18 Intersect East boundary 26 lks N. of Corner to sections 12 & 13
from which corner I run

Subdivision of Township 57 N. Range 17 W. 4th P. M.

N. 89 degrees 49 minutes W. on a true line between sections 12 & 13.

40.09 Set a post for ¼ Sec. Cor. from which
Tam. 4 N. 9 W. 21 lks.
Tam. 3 S. 62 E. 15 lks.

80.18 The corner to sections 11, 12 13 & 14.
Land level & wet. Soil 3d rate.
646 Timber: Small Spruce & tamarac.
Undergrowth, the same.

North between sections 11 & 12.
Var. 9 degrees 40 minutes E.

40.00 Set a post for ¼ Sec. Cor. from which
Tam. 5 N. 19 W. 6 lks.
Tam 8 N. 80 E. 13 lks.

80.00 Set a post for Corner to sections 1, 2, 11 & 12 from which
Tam. 4 N. 65 E. 8 lks.
Tam. 5 N. 40 W. 10 lks.
647 Tam. 3 S. 16 W. 6 lks.
Spruce 4 S. 66 E. 9 lks.
Land level & wet. Soil 3d rate.
Timber: Tamarac, Spruce & Cedar.
Undergrowth, the same.

East on a random line between Sections 1 & 12.
Var. 9 degrees 40 minutes E.

40.00 Set temp. ¼ Sec. Cor.

80.12 Intersect East boundary 20 lks N. of the Cor. to Sections 1 & 12
648 from which corner I run
N. 89 degrees 51 minutes W. on a true line between Sections 1 & 12.

40.06 Set a post for ¼ Section Corner from which
Cedar 10 N. 15 W. 26 lks.
Spruce 8 S. 76 W. 21 lks.

80.12 The Corner to Sections 1, 2, 11 & 12.
Land level & wet. Soil 3d rate.
Timber: Tamarac, Spruce & Cedar.
Undergrowth, the same.

Subdivision of Township 57 N. Range 17 W. 4th P. M.

The line between Sections 2 & 11 will strike "Cedar Island Lake" in less than 80.00 chains, I therefore run it west on a true line between Sections 2 & 11.

Var. 9 degrees 40 minutes E.

80.00 Interesect S. E. shore of Cedar Island Lake brs. N. E. & S. W.

Set a post for Cor. to fractional Sections 2 & 11 649
from which
Cedar 5 N. 42 E. 19 lks.
Spruce 8 S. 38 E. 29 lks.
The corner to Secs. 2, 3, 10 & 11 is in the lake & cannot be set.
Land level & wet. 3d rate.
Timber: Spruce, Tamarac & Cedar.
Undergrowth, the same

North on a random line between sections 1 & 2.

Var. 9 degrees 40 minutes E.

37.00 Creeks 6 lks runs west. 650
40.00 Set temp ¼ Sec. Cor.
58.00 Leave Swamp brs N. E. & S. W.
80.35 Intersect north boundary 28 lks. West of Corner to Sections 1 & 2.
from which corner I run
S. 0 degrees 12 minutes West on a true line between Sections 1 & 2.
40.35 Set a post for ¼ Section Corner from which
Tam. 6 N. 32 E. 18 lks.
Spruce 7 S. 20 W. 24 lks.
80.35 The corner to sections 1, 2, 11 & 12.
Land level. Solid 3d rate.
Timber: Spruce, Tamarac, Cedar, Birch, Aspen & Pine. 651
Undergrowth, the same.

North between sections 34 & 35.

Var. 10 degrees 20 minutes 20 E.

7.00 Enter swamp brs. N. E. & S. W.
40.00 Set a post for ¼ Section Cor. from which
Tam. 3 N. 50 W. 11 lks.

Subdivision of Township 57 N. Range 17 W. 4th P. M.

Tam. 3 N. 65 E. 14 lks.

80.00 Set a post for corner to sections 26, 27, 34 & 35 from which.

Tam. 7 N. 50 E. 18 lks.
Spruce 9 N. 20 W. 10 lks.
Spruce 10 S. 60 W. 19 lks.
Tam. 4 S. 10 E. 14 lks.

652 Land level. Soil 3d rate.
Timber: Spruce, Tamarac, Cedar, Birch.
Undergrowth, the same.

East on a random line between sections 26 & 35.
Var. 10 degrees E.

40.00 Set temp. ¼ Sec. Cor.
53.00 Leave swamp brs. N. E. & S. W.
79.86 Intersect N. & S. line 35 lks north of Cor. to Secs. 25, 26, 35 & 36.
from which corner I run
N. 89 degrees 45 minutes W. on a true line between Sections 26 & 35.

653
39.93 Set a post for ¼ Section Corner from which
Tam. 4 N. 37 W. 20 lks.
Spruce 6 S. 32 E. 10 lks.
79.86 The corner to Sections 26, 27, 34 & 35.
Land level. Soil 3d rate.
Timber: Spruce, Tamarac, Cedar, Birch & Aspen.
Undergrowth the same.

June 21st, 1876.

N. between Secs. 26 and 27.
Var. 10 degrees E.

654 40.00 Set a post for ¼ Section Cor. from which
Spruce 8 N. 52 W. 18 lks.
Tam. 5 N. 45 E. 9 lks.
80.00 Set a post Cor. to Sections 22, 23, 26 & 27 from which
Cedar 8 N. 25 E. 36 lks.
Spruce 10 N. 54 W. 17 lks.
Spruce 5 S. 72 W. 40 lks.
Tam. 3 S. 24 E. 18 lks.
Land level. Soil 3d rate.

Subdivision of Township 57 N. Range 17 W. 4th P. M.

Timber: Spruce, Tamarac & Cedar.
Undergrowth, the same.

East on a random lien between sections 23 & 26.
Var. 10 degrees E.

40.00 Set temp ¼ Sec. Cor.
47.50 Creek 5 lks. runs S. E.
79.68 Intersect N. & S. line 40 lks. N. of Cor. to Sects. 23, 24, 25 & 26. 655
from which corner I run
N. 89 degrees 43 minutes W. on a true line between Sections 23 & 26.
39.84 Set a post for ¼ Section Corner from which
Cedar 4 N. 11 W. 26 lks.
Spruce 6 S. 75 E. 9 lks.
79.68 The corner to sections 22, 23, 26 & 27.
Land level. Soil 3d rate.
Timber: Spruce, Tamarac & Cedar.
Undergrowth the same.

656

North between Sections 22 & 23.
Var. 10 degrees 10 minutes E.

15.00 Leave swamp brs. N. E. & S. W.
33.00 Enter swamp brs. N. W. & S. E.
40.00 Set a post for ¼ Sec. Cor. from which
Spruce 10 N. 11 W. 21 lks.
Spruce 7 S. 28 E. 3 lks.
73.50 Leave swamp brs. N. E. & S. W.
80.00 Set a post for Cor. to Sections 14, 15, 22 & 23 from which
Cedar 8 N. 82 E. 11 lks.
Birch 12 N. 50 W. 16 lks.
Birch 4 S. 65 W. 8 lks. 657
Spruce 10 S. 22 E. 19 lks.
Land level. Soil 3d rate.
Timber: Spruce, Tamarac, Cedar, Birch & Aspen.
Undergrowth, the same and Fir.

East on a random line between sections 14 & 23.
Var. 9 degrees 50 minutes E.

6.00 Enter swamp brs. N. E. & S. W.

Subdivision of Township 57 N. Range 17 W. 4th P. M.

35.00 Leave swamp brs. N. E. & S. W.
40.00 Leave swamp brs. N. & S.
79.90 Set temp. ¼ Sec. Cor.
Intersect N. & S. line 32 lks. South of Cor. to Sections 13, 14, 23
& 24 from which corner I run
S. 89 degrees 46 minutes W. on a true line between Sections 14 & 23.
658
39.95 Set a post for ¼ Section Cor. from which
Spruce 8 N. 59 W. 18 lks.
Birch 10 S. 18 W. 10 lks.
79.90 The corner to Sections 14, 15, 22, & 23.
Land level. Soil 3d rate.
Timber: Spruce, Tamarac, Cedar & Aspen.
Undergrowth, the same & Fir.

North between Sections 14 & 15.
Var. 10 degrees E.

33.00 Creek 6 lks runs S. W.
659
40.00 Set a post for ¼ Section Cor. from which
Fir 4 N. 70 W. 9 lks.
Fir 3 N. 56 E. 11 lks.
80.00 Set a post Cor. to Sections 10, 11, 14 & 15, from which
Cedar 6 N. 9 E. 12 lks.
Birch 14 N. 82 W. 15 lks.
Cedar 8 S. 38 W. 30 lks.
Aspen 12 S. 40 E. 27 lks.
Land rolling. Soil 3d rate.
Timber: Birch, Spruce, Aspen, Cedar, Tamarac & Cedar.
Undergrowth, Aspen, Pine, Fir & Aspen.
660

East on a random between Sections 11 & 14.
Var. 10 degrees E.

11.00 Enter swamp brs. N. & S.
40.00 Set temp. ¼ Sec. Cor.
79.85 Intersect N. & S. line 22 lks. South of Cor. to Sects. 11, 12, 13 & 14
from which corner I run
S. 89 degrees 51 minutes West on a true line be-

Subdivision of Township 57 N. Range 17 W. 4th P. M.

tween Sections 11 & 14.

39.92 Set a post for ¼ Sec. Cor. from which
Spruce 3 N. 35 W. 18 lks.
Tam. 6 S. 30 W. 14 lks.

79.85 The Corner to Sections 10, 11, 14 & 15.
Land level. Soil 3d rate.
Timber: Tamarac, Spruce, Cedar, Birch, Aspen & Maple.
Undergrowth, the same. 661

North between Sections 10 & 11.
Var. 10 degrees E.

12.50 Stream 25 lks runs S. W.
25.00 Enter Swamp brs. N. E. & S. W.
40.00 Set a post for ¼ Sec. Cor. from which
Spruce 5 S. 74 W. 9 lks.
Spruce 8 S. 50 E. 11 lks.
47.00 Leave Samp brs. N. E. & S. W.
55.00 South shore of Cedar Island Lake brs. E. & W.
Set apost for Cor. to fractional Sects. 10 & 11 from which 662
Cedar 8 S. 65 E. 28 lks.
Tam. 5 S. 20 W. 12 lks.
Lake extends from this point north across the Twp line.
Land rolling. Soil 3d rate.
Timber: Birch, Spruce, Aspen, Cedar & Tamarac.
Undergrrowth, the same.

June 22, 1876.

North between Sections 33 & 34.
Var. 10 degrees 15 minutes E. 663

27.50 Creek 6 lks runs S. E.
40.00 Set a post for ¼ Sec. Cor. from which
Birch 4 N. 36 W. 26 lks.
Aspen 10 N. 45 E. 14 lks.
60.00 Enter swamp brs. N. E. & S. W.
80.00 Set a post corner to Sections 27, 28, 33 & 34 from which
Cedar 5 N. 30 E. 45 lks.
Cedar 10 N. 68 W. 55 lks.

Subdivision of Township 57 N. Range 17 W. 4th P. M.

Cedar 5 S. 20 W. 15 lks.
Spruce 4 S. 70 E. 35 lks.
Land rolling. Soil 3d rate.
Timber: Birch, Spruce, Aspen, Tamarac & Cedar.
Undergrowth, Aspen, Fir, Pine & Alder.

East on a random line between Sections 27 & 34.
Var. 10 degrees E.

664

16.50 Leave swamp brs. N. E. & S. W.
39.50 Creek 5 lks. runs S. W.
40.00 Set temp. ¼ Sec. Cor.
46.00 Enter swamp brs. N. & S.
80.42 Intersect N. & S. line 60 lks. N. of Cor. to Sects. 26, 27, 34 & 35
from which corner I run
N. 89 degrees 34 minutes W. on a true line between Sections 27 & 38.
40.21 Set a post for ¼ Sec. Cor. from which
Cedar 5 N. 40 W. 20 lks.
665 Spruce 4 S. 18 E. 29 lks.
80.42 The corner to Sections 27, 28, 33 & 34.
Land level. Soil 3d rate.
Timber: Spruce, Birch, Tam., Cedar & Aspen.
Undergrowth, the same & Fir.

North between Sections 27 & 28.
Var. 9 degrees 50 minutes E.

40.00 Set ap ost for a ¼ Sec. Cor. from which
Cedar 10 N. 45 W. 10 lks.
Spruce 4 N. 56 E. 4 lks.
54.00 Leave swamp brs. N. E. & S. W.
666 65.00 Stream 25 lks runs S. W.
80.00 Set a post for Corner to Sections 21, 22, 27 & 28 from which
Aspen 4 N. 56 E. 11 lks.
Aspen 3 N. 30 W. 40 lks.
Birch 10 S. 46 W. 10 lks.
Tam. 10 S. 36 E. 24 lks.
Land generally level. Soil 3d rate.
Timber: Spruce, Tam., Birch, Cedar & Aspen.
Undergrowth, the same.

Subdivision of Township 57 N. Range 17 W. 4th P. M.

East on a random line between Sections 22 & 27.
Var. 9 degrees 35 minutes E.

7.50 Stream 25 lks. wide runs S. W.
39.00 Enter swamp brs. N. E. & S. W.
40.00 Set temp. ¼ Sec. Cor.
80.12 Intersect N. & S. line 24 lks N. of Cor. to Sections 22, 23, 26 & 27 from which corner I run N. 89 degrees 50 minutes W. on a true line between Sections 22 & 27. 667
40.06 Set a post for ¼ Sec. Cor. frrom which
Cedar 10 S. 80 E. 15 lks.
Spruce 12 N. 45 W. 17 lks.
80.12 The corner to Sections 21, 22, 27 & 28.
Land level. Soil 3d rate.
Timber: Tamarac, Spruce, Cedar, Birch & Aspen.
Undergrowth, the same.

North between Sections 21 & 22.
Var. 9 degrees 40 minutes E. 668

15.00 Enter swamp brs. N. E. & S. W.
40.00 Set a post for ¼ Sec. Cor. from which
Tam. 6 N. 50 E. 14 lks.
Tam. 8 N. 45 W. 26 lks.
61.50 Leave swamp brs. N. E. & S. W.
80.00 Set a post for Corner to Sections 15, 16, 21 & 22, from which
Birch 4 N. 42 W. 24 lks.
Fir 3 N. 30 E. 36 lks.
Fir 5 S. 20 E. 30 lks.
Birch 6 S. 80 W. 19 lks.
Land level. Soil 3d rate. 669
Timber: Spruce, Tam., Birch, Cedar & Aspen.
Undergrowth, the same & Fir.

East on a random line between Sections 15 & 22.
Var. 9 degrees 30 minutes E.

25.00 Stream 25 lks. runs South.
40.00 Set temp. ¼ Sec. Cor.
79.76 Intersect N. & S. line 48 lks. South of Cor. to Sects. 14, 15, 22 & 23 from which corner I run

Subdivision of Township 57 N. Range 17 W. 4th P. M.

S. 89 degrees 39 minutes West on a true line between Sections 15 & 22.

39.88 Set a post for ¼ Sec. Cor. from which
Fir 5 S. 20 W. 10 lks.
Fir 3 N. 38 W. 15 lks.

79.76 The corner to Sections 15, 16, 21 & 22.
Land rolling. Soil 3d rate.
670 Timber: Birch, Tam., Spruce, Aspen & Cedar, mostly fire killed.
Undergrowth, the same & Fir.

North between Sections 15 & 16.
Var. 9 degrees 40 minutes E.

40.00 Set a post for ¼ Sec. Cor. from which
Birch 18 N. 70 E. 102 lks.
Birch 5 N. 38 W. 115 lks.

44.00 Enter swamp brs. N. E. & S. W.

80.00 Set a post for Corner to Sections 9, 10, 15 & 16 from which
671 Cedar 10 N. 60 E. 45 lks.
Cedar 6 N. 46 W. 34 lks.
Tam. 8 S. 35 W. 12 lks.
Tam. 6 S. 75 E. 40 lks.
Land slightly rolling. Soil 3d rate.
Timber: Birch, Tamarac, Spruce, Cedar, Aspen & Maple.
Undergrowth, Aspen, Fir & Alder.
June 23d, 1876.

East on random line between Sections 10 & 15.
Var. 9 degrees 40 minutes E.

672 40.00 Set temp. ¼ Sec. Cor.

63.00 Leave swamp brs. N. E. & S. W.

72.00 Stream 25 lks. runs S. W.

80.10 Intersect N. & S. line 20 lks. South of Corner to Sections 10, 11, 14 & 15 from which corner I run
S. 89 degrees 51 minutes W. on a true line between Sections 10 & 15

40.05 Set a post for ¼ Sec. Cor. from which
Tam. 3 S. 31 W. 10 lks.
Tam. 5 N. 80 W. 15 lks.

Subdivision of Township 57 N. Range 17 W. 4th P. M.

80.10 The corner to Sections 9, 10, 15 & 16.
Land level. Soil 3d rate.
Timber: Spruce, Tamarac, Cedar & Birch.
Undergrowth, the same, Aspen & Fir.

North between Sections 9 & 10.
Var. 9 degrees 35 minutes E.

15.00 Leave swamp brs. E. & W. 673
40.00 Set a post for ¼ Sec. Cor. frrom which
Cedar 10 N. 80 W. 50 lks.
Tam. 12 N. 35 E. 42 lks.
46.40 Set a post on south shore of Cedar Island Lake for corner to fractional sections 9 & 10 from which
Cedar 5 S. 50 E. 26 lks.
Birch 8 S. 42 W. 15 lks.
The point for corner to sections 3, 4, 9 & 10 falls in the Lake and cannot be set.
Land rolling. Soil 3d rate.
Timber: Birch, Tamarac, Spruce, Cedar & Nor- 674
way Pine.
Undergrowth, the same & Blk Alder.

The point for corner to sections 3, 4, 9 & 10 being in the Lake I begin at the corner to Sections 3 & 4 on the north boundary of the Township and run south on a true line between Sections 3 & 4.
Var. 9 degrees 30 minutes E.

26.10 Set a post on north shore of Lake for Corner to fractional sects. 3 & 4 from which
Birch 6 N. 54 E. 25 lks.
Birch 10 N. 60 W. 18 lks. 675
From this point the flag in line between Sections 8 & 9 on south shore of Lake bears S. 0 degrees 15 minutes E.
To ascertain the distance across the lake on this line I run a base N. 82 E. 15.00 chains to a point from which the flag in line on south shore bears S. 9 degrees 10 minutes West I find the distance across the lake to be 87.60 chains.
Land rolling. Soil 3d rate.

Subdivision of Township 57 N. Range 17 W. 4th P. M.

Timber: Birch, Spruce, Tam., Aspen, Cedar, Maple & Pine.
Undergrowth, the same.

North between Sections 32 & 33.
Var. 10 degrees E.

676

40.00 Set post for ¼ Sec. Cor. from which
Spruce 4 N. 10 E. 16 lks.
Spruce 3 N. 64 W. 18 lks.

80.00 Set a post for corner to Sections 28, 29, 32 & 33 from which
Cedar 5 N. 60 E. 23 lks.
Tam. 3 N. 32 W. 19 lks.
Tam. 3 S. 58 W. 10 lks.
Spruce 5 S. 23 E. 14 lks.
Lan dlevel. Soil 3d rate.
Timber: Spruce, Tam. & Cedar.
Undergrowth, the same.

677

East on a random line between Sections 28 & 33.
Var. 10 degrees E.

40.00 Set temp. ¼ Cec. Cor.

79.82 Intersect N. & S. line 72 lks. N. of Cor. to Sections 27, 28, 33 & 34 from which corner I run
N. 89 degrees 29 minutes W. on a true line between Sections 28 & 33.

39.91 Set a post for ¼ Sec. Cor. from which
Tam. 4 N. 50 E. 26 lks.
Tam. 3 S. 46 E. 19 lks.

79.82 The corner to Sections 28, 29, 32 & 33.
Land level & wet. Soil 3d rate.

678

Timber: Small Spruce, Tamarac & Cedar.
Undergrowth the same.

North between Sections 28 & 29.
Var. 9 degrees 50 minutes E.

5.00 Leave swamp brs. E. & W.

25.00 Stream 25 lks. runs S. W.

39.00 Enter swamp brs. E. & W.

40.00 Set post for ¼ Sec. Cor. from which

Subdivision of Township 57 N. Range 17 W. 4th P. M.

Cedar 4 N. 55 W. 11 lks.
Spruce 4 N. 80 E. 90 lks.
80.00 Set a post for Cor. to Sections 20, 21, 28 & 29 from which
Spruce 8 N. 25 E. 18 lks.
Spruce 4 N. 85 W. 10 lks.
Spruce 4 S. 60 W. 14 lks.
Tam. 3 S. 46 E. 17 lks. 679
Land level & wet. Soil 3d rate.
Timber: Spruce, Tamarac & Cedar.
Undergrowth, the same.

June 24, 1876.

East on a random line between Sections 21 & 28.
Var. 9 degrees 50 minutes E.

40.00 Set temp. ¼ Sec. Cor.
72.40 Leave swamp brs. N. E. & S. W.
79.90 Intersect N. & S. line 43 lks. N. of Cor. to Sects. 21, 22, 27 & 28 from which corner I run
N. 89 degrees 42 minutes West on a true line between Sections 21 & 28 680
80.95 Set a post for ¼ Sec. Cor. from which
Tam. 3 N. 80 E. 5 lks.
Tam. 4 S. 55 W. 6 lks.
79.90 The corner to sections 20, 21, 28 & 29.
Land level & wet. Soil 3d rate.
Timber: Spruce, Tamarac & Cedar.
Undergrowth, the same.

North between Sections 20 & 21.
Var. 9 degrees 45 minutes E.
681
13.50 Creek 5 lks. runs south west.
40.00 Set a post for ¼ Sec. Cor. from which
Tam. 5 N. 18 E. 42 lks.
Tam. 5 N. 45 W. 36 lks.
68.00 Creek 6 lks. runs S. West.
80.00 Set post for Cor. to Sects. 16, 17, 20 & 21 from which
Cedar 6 N. 43 E. 21 lks.
Cedar 5 N. 60 W. 23 lks.
Spruce 5 S. 65 W. 33.

Subdivision of Township 57 N. Range 17 W. 4th P. M.

Spruce 3 S. 20 E. 40 lks.
Land level. Soil 3d rate.
Timber: Tamarac, Spruce & Cedar.
Undergrowth the same.

East on a random line between Sections 16 & 21.
Var. 9 degrees 40 minutes E.

682
10.00 Creek 5 lks runs S. West.
40.00 Set temp. ¼ Sec. Cor.
74.50 Leave swamp brs. N. & S.
80.32 Intersect N. & S. line at the corner to Sections 15, 16, 21 & 22.
from which corner I run
West on a true line between Sections 16 & 21.
40.16 Set a post for ¼ Sec. Cor. from which
Tam. 8 N. 29 W. 38 lks.
Tam. 5 S. 60 E. 48 lks.
80.32 The corner to Sections 16, 17, 20 & 21.
Land level. Soil 3d rate.
683 Timber: Tamarac, Spruce & Cedar.
Undergrowth, the same.

North between Sections 16 & 17.
Var. 9 degrees 40 minutes E.

40.00 Set a post for ¼ Sec. Cor. from which
Spruce 4 N. 25 W. 8 lks.
Tam. 3 S. 70 E. 16 lks.
80.00 Set a post for Cor. to Sects. 8, 9, 16 & 17 from which
Cedar 10 N. 45 E. 50 lks.
Cedar 4 N. 56 W. 38 lks.
Cedar 6 S. 70 W. 45 lks.
684 Tam. 10 S. 12 E. 34 lks.
Land level & wet. Soil 3d rate.
Timber: Spruce, Tamarac & edar.
Undergrowth the same.

East on a random line between Sects. 9 & 16.
Var. 9 degrees 35 minutes E.

40.00 Set temp. ¼ Sec. Cor.
80.28 Intersect N. & S. line 48 lks. South of corner to

Subdivision of Township 57 N. Range 17 W. 4th P. M.

Sections 9, 10, 15 & 16 from which corner I run S. 89 degrees 39 minutes W. on a true line between Sections 9 & 16.

40.14 Set a post for ¼ Sec. Cor. from which
Cedar 5 N. 40 E. 15 lks.
Tam. 4 S. 80 E. 12 lks.

80.38 The corner to Sections 8, 9, 16 & 17.
Land level & wet. Soil 3d rate. 685
Timber: Tamarac, Cedar & Spruce.
Undergrowth the same.

North between Sections 8 & 9.
Var. 9 degrees 40 minutes E.

25.00 Leave swamp bears N. E. & S. W.
32.50 Creek 6 lks. runs East.
40.00 Set post for ¼ Sect. Cor. from which
Birch 10 N. 27 W. 35 lks.
Birch 14 N. 50 E. 26 lks.
80.00 Set a post for corner to Sections 4, 5, 8 & 9 from which 686
Fir 6 N. 64 E. 18 lks.
Fir 4 N. 50 W. 26 lks.
Cedar 5 S. 41 W. 15 lks.
Birch 10 S. 20 E. 20 lks.
Land rolling. Soil 3d rate.
Timber: Birch, Spruce, Cedar, Tamarac, Aspen & Maple.
Undergrowth, Aspen & Fir.

The line between Sections 4 & 9 runs into "Cedar Island Lake" in less than 80.00 chains, I therefore run it 687
East on a true line between Sections 4 & 9.
Var. 9 degrees 35 minutes E.

12.10 Set a post on the West shore of Cedar Island Lake for
Corner to fractional Sections 4 & 9 from which
Fir 4 N. 65 W. 34 lks.
Birch 6 S. 26 W. 44 lks.
Land rolling. Soil 3d rate.
Timber: Birch, Cedar, Spruce, Aspen, Tamarac

Subdivision of Township 57 N. Range 17 W. 4th P. M.

& Maple.
Undergrowth, Fir & Aspen.

North on a random line between Sections 4 & 5.
Var. 9 degrees 35 minutes E.

6.40 Creek 10 lks. runs East.
40.00 Set temp. ¼ Sec. Cor.
80.24 Intersect north boundary 35 lks. East from the
688 Cor. to Sections 4 & 5 from which corner I run
S. 0 degrees 15 minutes E on a true line between Sections 4 & 5.
40.24 Set a post for ¼ Sect. Cor. from which
Birch 14 N. 80 W. 42 lks.
Aspen 10 N. 30 E. 56 lks.
80.24 The Corner to Sections 4, 5, 8 & 9.
Land rolling. Soil 3d rate.
Timber: Birch, Spruce, Cedar, Aspen, Tamarac, & Maple.
Undergrowth, Fir, Aspen & Alder.
June 26, 1876.

689 ---

North beteen Sections 31 & 32.
Var. 9 degrees 30 minutes E.

40.00 Set a post for ¼ Sec. Cor. from which
Birch 6 N. 30 W. 10 lks.
Fir 4 N. 15 E. 20 lks.
57.00 Stream 25 lks runs West.
80.00 Set a post for corner to Sections 29, 30, 31 & 32 from which.
690 Aspen 3 N. 40 E 12 lks.
Aspen 3 N. 70 W. 8 lks.
Aspen 4 S. 40 W. 16 lks.
Aspen 4 S. 10 E. 10 lks.
Land slightly rolling. Soil 3d rate.
Timber: Birch, Tam., Spruce, Aspen & Maple mostly killed by fire. Undergrowth, Aspen, Fir & Alder.

Subdivision of Township 57 N. Range 17 W. 4th P. M.

East on a random line between Sections 29 & 32.
Var. 9 degrees 35 minutes E.

27.50 Stream 25 lks. runs S. West.
40.00 Set temp. ¼ Sec. Cor.
52.50 Enter Tamarac swamp brs. N. E. & S. W.
79.76 Intersect N. & S. line 33 lks. South of the Corner to Sects. 28, 29, 32 & 33.
from which corner I run 691
S. 89 degrees 46 minutes West on a true line between Sections 29 & 32.
39.88 Set a post for ¼ Sec. Cor. from which
Fir 4 N. 28 W. 30 lks.
Spruce 5 S. 60 W. 18 lks.
79.76 The corner to Sections 29, 30, 31 & 32.
Land level. Soil 3d rate.
Timber: Birch, Spruce, Tamarac, Aspen & Maple.
Undergrowth the same & Fir.

West on a random line between Sections 30 & 31.
Var. 9 degrees 10 minutes E. 692

27.00 Enter swamp brs. N. E. & S. W.
40.00 Set temp. ¼ Sec. Cor.
60.40 Intersect West Boundary 52 lks. South of Cor. to Sects. 30 & 31.
40.46 Set post for ¼ Sec. Cor. from which
Cedar 12 S. 70 E. 25 lks.
Cedar 8 N. 15 W. 10 lks.
80.46 The corner to Sections 29, 30, 31 & 32.
Land level. Soil 3d rate.
Timber: Spruce, Birch, Tam., Aspen & Cedar.
Undergrowth the same & Fir.

693

North between Sections 29 & 30.
Var. 9 degrees 20 minutes E.

22.50 Enter swamp brs. N. E. & S. W.
40.00 Set a post for ¼ Sec. Cor. from which
Tam. 10 N. 56 E. 11 lks.
Tam. 4 N. 80 W. 14 lks.
80.00 Set a post for corner to Sections 19, 20, 29 & 30 from which
Cedar 4 N. 80 W. 25 lks.

Subdivision of Township 57 N. Range 17 W. 4th P. M.

Tam. 5 N. 42 E. 17 lks.
Tam. 8 S. 58 E. 25 lks.
Tam. 3 S. 71 W. 35 lks.
Land level. Soil 3d rate.
Timber: Tamarac, Spruce, Cedar & Birch.
Undergrowth, the same & Fir.

---

694 East on a random line between Sections 20 & 29.
Var. 9 degrees 20 minutes E.

40.00 Set temp. ¼ Sec. Cor.
62.00 Creek 5 lks. runs South.
80.25 Intersect N. & S. line 68 lks. N. of Cor. to Sects. 20, 21, 28 & 29
from which corner I run
N. 89 degrees 31 minutes West on a true line between Sections 20 & 29.
40.12 Set a post for ¼ Sec. Cor. from which
Tam. 5 N. 75 E. 8 lks.
Tam. 4 S. 42 W. 8 lks.
695 80.25 The Corner to Sections 19, 20, 29 & 30.
Land level. Soil 3d rate.
Timber: Tamarac, Spruce & Cedar.
Undergrowth the same.

West on a random line between Sections 19 & 30.
Var. 9 degrees E.

40.00 Set temp. ¼ Sec. Cor.
45.00 Creek 10 lks. runs South.
80.45 Intersect W. boundary 37 lks. North of Cor. to Sections 19 & 30
from which corner I run
696 N. 89 degrees 44 minutes E. on a true line between Sections 19 & 30.
40.45 Set post for ¼ Sec. Cor. from which
Spruce 10 N. 21 E. 34 lks.
Birch 4 S. 35 W. 50 lks.
90.45 The corner to Sections 19, 20, 29 & 30.
Land level. Soil 3d rate.
Timber: Tam., Spruce, Cedar & Birch. Undergrowth the same.

June 28, 1876.

Subdivision of Township 57 N. Range 17 W. 4th P. M.

North between Sections 19 & 20.
Var. 9 degrees 20 minutes E.

40.00 Set a post for ¼ Sec. Cor. from which
Spruce 8 N. 34 W. 40 lks.
Cedar 8 N. 65 E. 27 lks.
53.00 Creek 10 lks. runs S. West.
80.00 Set a post for Cor. to Sections 17, 18, 19 & 20 from which 697
Tam. 10 N. 51 E. 30 lks.
Tam. 12 N. 80 W. 46 lks.
Spruce 8 S. 10 W. 35 lks.
Tam. 14 S. 36 E. 60 lks.
Land level. Soil 3d rate.
Timber: Spruce, Tamarac & Cedar.

East on a random line between Sections 17 & 20.
Var. 9 degrees E.

40.00 Set a post for temp. ¼ Sec. Cor.
79.86 Intersect N. & S. line 52 lks. N. of Corner to Sects. 16, 17, 20 & 21 698
from which corner I run
N. 89 degrees 38 minutes on a true line between Sections 17 & 20.
39.93 Set post for ¼ Sec. Cor, from which
Spruce 4 S. 20 E. 65 lks.
Spruce 6 N. 58 W. 40 lks.
79.86 The corner to Sections 17, 18, 19 & 20.
Land level. Soil 3d rate.
Timber: Spruce, Tamarac & Cedar.
Undergrowth the same.

699

West on a random line between Sections 18 & 19.
Var. 9 degrees E.

40.00 Set temp. ¼ Sec. Cor.
70.00 Leave swamp brs. N. W. & S. E.
80.30 Intersect W. boundary 67 lks. S. of Cor. to Sects. 18 & 19.
from which corner I run
S. 89 degrees 31 minutes E. on a true line between Sects. 18 & 19.

Subdivision of Township 57 N. Range 17 W. 4th P. M.

40.30 Set a post for ¼ Sec. Cor. from which
Cedar 10 N. 50 W. 41 lks.
Cedar 4 S. 62 E. 60 lks.

80.30 The corner to Sections 17, 18, 19 & 20.
Land level. Soil 3d rate.
Timber: Spruce, Tamarac, Cedar & Birch.
Undergrowth the same & Alder.

700

North between Sections 17 & 18.
Var. 9 degrees 20 minutes E.

27.50 Creek 6 lks. runs S. West.

40.00 Set a post for ¼ Sec. Cor. from which
Tam. 4 N. 12 E. 18 lks.
Tam. 3 N. 42 W. 16 lks.

80.00 Set a post for Cor. to Sects. 7, 8, 17 & 18 from which
Spruce 5 N. 50 E. 27 lks.
Spruce 6 N. 85 W. 14 lks.
Tam. 10 S. 60 E. 15 lks.
Land level & et. Soil 3d rate.
701 Timber: Spruce, Tamarac & Cedar.
Undergrowth the same.

East on a random line between Sects. 8 & 17.
Var. 9 degrees E.

20.00 Creek 4 lks. runs South.

40.00 Set temp. ¼ Sec. Cor.

41.00 Leave swamp brs. N. W. & S. E.

61.20 Enter swamp brs. N. E. & S. W.

80.30 Intersect N. & S. line 60 lks of Cor. to Sects. 8, 9, 16 & 17
702 from which corner I run
S. 89 degrees 34 minutes West on a true line between Sects. 8 & 17.

40.15 Set a post for ¼ Sec. Cor. from which
Tam. 8 N. 20 W. 35 lks.
Spruce 6 S. 78 W. 45 lks.

80.30 Corner to Sections 7, 8, 17 & 18.
Land level. Soil 3d rate.
Timber: Spruce, Tam., Cedar, Birch & Aspen.
Undergrowth the same.

Subdivision of Township 57 N. Range 17 W. 4th P. M.

West on a random line between Sects. 7 & 18.
Var. 9 degrees E.

40.00 Set temp. ¼ Sec. Cor.
50.50 Leave swamp brs. N. E. & S. W.
79.60 Intersect W. boundary 30 lks. N. of Cor. to Sects. 7 & 18.
from which corner I run
N. 89 degrees 47 minutes E. on a true line between Sects 7 & 18. 703
39.60 Set a post for ¼ Sec. Sor. from which
Cedar 6 N. 28 E. 14 lks.
Cedar 10 S. 58 W. 19 lks.
79.60 The corner to Sections 7, 8, 17 & 18.
Land level. Soil 3d rate.
Timber: Spruce, Tam., Cedar, Birch & Aspen.
Undergrowth the same & Alder.

North between Sections 7 & 8.
Var. 9 degrees E.
704
40.00 Set a post for ¼ Sec. Cor. from which
Tam. 3 N. 73 W. 18 lks.
Spruce 3 N. 22 E. 25 lks.
41.30 Leave swamp brs. E. & W.
60.00 Creek 6 lks. runs East.
80.00 Set a post for Cor. to Sections 5, 6, 7 & 8 from which
Aspen 10 N. 65 E. 37 lks.
Aspen 6 N. 40 W. 48 lks.
Aspen 7 S. 43 W. 45 lks.
Aspen 4 S. 70 E. 10 lks.
Land slightly rolling. Soil 3d rate.
Timber: Birch, Spruce, Tam., Cedar & Aspen. 705
Undergrowth the same & Fir.
June 29, 1876.

East on a random line between Sects 5 & 8.
Var. 9 degrees 20 minutes E.

40.00 Set temp. ¼ Sec. Cor.
80.32 Intersect N. & S. line 38 lks. S. of Cor. to Sects. 4, 5, 8 & 9

Subdivision of Township 57 N. Range 17 W. 4th P. M.

from which corner I run
S. 89 degrees 44 minutes W. on a true line between Sects. 5 & 8

40.16 Set a post for ¼ Sec. Cor. from which
Birch 7 N. 63 W. 36 lks.
Fir 5 S. 25 E. 19 lks.

80.32 The corner to Sections 5, 6, 7 & 8.

706 Land rolling. Soil 3d rate.
Timber: Birch, Cedar, Spruce, Aspen, Tam., & Maple.
Undergrowth Aspen, Fir & Alder.

West on a random line between Sections 6 & 7.
Var. 9 degrees 15 minutes E.

40.00 Set temp ¼ Sec. Cor.
79.65 Intersect W. boundary line 46 lks N. of Cor. to Sects. 6 & 7.

39.65 Set a post for ¼ Sec. Cor. from which
edar 18 S. 80 W. 20 lks.
707 Birch 12 N. 32 W. 34 lks.

79.65 The corner to Sections 5, 6, 7 & 8.
Land rolling. Soil 3d rate.
Timber: Birch, Aspen, Fir & Alder.

North on a random line between Sections 5 & 6.
Vor. 9 degrees 30 minutes E.

40.00 Set temp. ¼ Sec. Cor.
80.33 Intersect N. boundary line 27 lks. of Cor. to Sects. 5 & 6.
from which corner I run
708 S. 0 degrees 12 minutes W. on a true line between Sections 5 & 6.

40.33 Set a post for ¼ Sect. Cor. from which
Birch 14 S. 60 E. 21 lks.
Birch 10 N. 72 W. 26 lks.

80.33 The corner to Sections 5, 6, 7 & 8.
Land rolling. Soil 3d rate.
Timber: Birch, Spruce, Cedar, Aspen & Maple.
Undergrowth the same, Fir & Alder.

Field Notes of the meanders of a Lake in Section 18.

Beginning at the Corner to fractional Sects. 13 & 18 on the north shore of the lake, and run thence in Sec. 18, as follows:
N. 72 E. 4.00 chains.
N. 15 E. 9.00 chains.
N. 42½ E. 8.00 chains.
S. 81½ E. 10.00 chains.
S. 52½ E. 8.00 chains.
S. 19½ E. 16.00 chains. 709
S. 9 W. 8.00 chains. A creek 8 lks. runs N. W. into lake.
S. 44 W. 2.00 chains.
S. 73½ W. 6.00 chains.
S. 63 W. 15.00 chains.
S. 69 W. 5.00 chains.
S. 77 W. 7.40 chains. Corner to fracts. 13 & 18 on Shore of the lake.
The land about this lake is generally lo w& wet. 3d rate.
Timber: Spruce, Tamarac, Cedar, Birch & Pine.
June 30th, 1876. 710

Meanders in Township 57 N. Range 17 W 4th P. M.

Field notes of the "Meanders of Cedar Island Lake."

Beginning at the corner to fractional Sections 3 & 34 in the North boundary of the townships & run thence in Section 3 as follows:

S. 38½ W. 23.00 chains.
S. 63 W. 13.00 chains.
S. 82 W. 15.00 chains. To the corner to fractional 3 & 4 thence in fractional Sec. 4 as follows: 711
S. 86 W. 10.00 chains.
S. 61½ W. 17.00 chains.
S. 71½ W. 3.20 chains.
N. 67½ W. 21.00 chains.
N. 10 W. 4.00 chains.
N. 73½ W. 7.50 chains.
S. 43½ W. 10.00 chains.
S. 25 W. 12.00 chains.
S. 13 E. 18.00 chains.

Meanders in Township 57 N. Range 17 W. 4th P. M.

S. 21½ W. 17.50 chains. Creek 10 lks. runs E. into Lake.
S. 10½ E. 6.10 chains. To Cor. to fractional Sects. 4 & 9 thence in Section 9 as follows:
S. 10½ E. 7.00 chains.
S. 35 E. 25.00 chains. Creek 6 lks. run N. E. into Lake.
712 S. 67 E. 20.00 chains.
S. 72 E. 15.00 chains.
S. 84½ E. 8.00 chains.
N. 64½ E. 13.45 chains. Cor. to fractional Sects 9 & 10, thence in section 10 as follows:
N. 59 E. 20.00 chains.
N. 42 E. 27.00 chains.
N. 75 E. 9.00 chains.
S. 47 E. 6.20 chains.
S. 19¼ E. 8.80 chains.
S. 49 E. 12.00 chains.
S. 68½ E. 12.00 chains.
713 N 88 E. 8.70 chains. To Cor. to fractional Sects. 10 & 11.
Thence in Section 11 as follows:
N. 88 E. 6.25 chains.
S. 60½ E. 2.50 chains.
South 4.00 chains.
S. 48 E. 2.00 chains. Stream 25 lks runs South out of lake.
N. 58½ E. 5.00 chains.
N. 25 E. 10.00 chains.
N. 44 3-4 E. 5.00 chains.
N. 55 E. 27.60 chains to Cor to fractional Sects 2 & 11.
714 Thence in Section 2 as follows:
N. 44½ E. 5.00 chains.
N. 22 E. 13.00 chains.
N. 45 E. 12.00 chains.
N. 56½ E. 10.00 chains.
N. 38 E. 6.00 chains.
N. 7½ chains W. 7.00 chains.
N. 4 3-4 E. 17.00 chains.
N. 13 W. 5.00 chains.
N. 22½ W. 8.00 chai,ns.

Meanders in Township 57 N. Range 17 W. 4th P. M.

N. 58 W. 13.00 chains.
S. 87¼ W. 10.00 chains.
S. 41 W. 15.00 chains.
S. 66½ W. 3.60 chains.
N. 75 W. 2.50 chains.
N. 52 W. 5.00 chains.
N. 19¼ E. 5.00 chains.
N. 35¼ W. 3.80 chains.
N. 78½ W. 5.50 chains. 715
N. 23 W. 3.20 chains to the Cor. to fractional Sects. 2 & 35 in the northern boundary of the township.
Land slightly rolling. Soil 3d rate.
Timber: Spruce, Tam., Birch, Cedar, Aspen, Maple and Pine.

June 27th, 1876.

GENERAL DESCRIPTION.

There is no land in this township above 3d rate quality, and a very large portion of the whole is swamp land and very wet. The timber is Spruce, 716
Tamarac, Birch, Cedar, Aspen & Maple with scattering Pine about the Lake in the Northern portion. Nearly all the timber except that in the Northern tier of sections has been killed by fire, and much of it has fallen. On all the high land there is a dense growth of Aspen, Fir & Norway Pine, from 6 to 20 feet high.

SURVEYOR GENERAL'S OFFICE,
St. Paul, Minn., May 24, 1895.

I hereby certify that I have carefully compared the foregoing field notes of the surveys of the Ex- 717
terior, subdivision and meander lines of Township 57 N. Range 17 W. 4th P. M. Minnesota, with the original field notes of said Exterior, subdivision and meander lines, as returned to this office by the U. S. Deputy Surveyor, and that the same is a true copy and correct copy of said original field notes on file in this office.

JOHN COMPTON,
Surveyor General.

COMPLAINANT'S EXHIBIT "E 1."

718 State of Minnesota,

County of St. Louis.—ss.

I, the undersigned, Ray W. Nichols, County Surveyor of said County, do hereby certify that I have compared the copy of record of the field notes and the calculations of the survey of Township Fifty-seven (57) North of Range Seventeen (17) West in said St. Louis County, from pages 1 to 23, both inclusive, in the annexed book and Plats one (1) to sixteen (16) both inclusive in the annexed book, with the original records of said field notes and calculations of said survey now of record in the office of the County Surveyor afore-
719 said, and that the same is a true copy thereof, and the whole of said original field notes and calculations of said survey; that said original field notes are now in my custody as such County Surveyor, and that said survey was made pursuant to the authority of the County Commissioners of said County, a certified copy of the resolution of the Board of County Commissioners under and by the authority of which said survey was made is annexed hereto.

In testimony whereof I have hereunto signed my name and affixed my official signature this 9th day of January, A. D. 1899, and that I have no official seal.

720 R. W. NICHOLS,
County Surveyor of
St. Louis Co., Minn.

March 8-1894.

Survey of T 57 N-R 17 W.

I commenced on true line North side Sec. 6 between
Cor. to Sec. 5 & 6 and ¼ Cor. North side Sec. 6 and
run West on same line to a point 539.6 fe. North of
Cor. 1 6 31-36 angle to Cor. 90 degrees & measured
2546.8 East from said point to ¼ Cor. gas pipe
monument found B. T-s standing, then measured
E.
2613.7 to Cor. to Sec. 5 & 6 found post & B. T's 721
standing continuing East on same line br 2 degrees E. 2587.5
to a point 335.5 ft. South of ¼ North side Sec. 5
angle
2587.5 90 degrees on same line found post & B. T's standing
2628.5 2628.5
858.9

5241.89

792.5
494

298.5
2592.5
Angle 6°34
N83° 26′ E 722
Dist 26 09 6

2592.5
25.8 to a point 494 ft South of Cor to Sec. 4 & 5 I found

2566.7

2595.8 423.8
Tam'k — 2.6266483
3.4141836

9.2134607
9° -15-49
N86°-44′ E

post & B. T's in good preservation.
2595.8 to a point 792.5 South of ¼ post North side Sec. 4
5187.8 I found post & B. Ts standing 723
to a point 1215.8 ft South of Cor. to 3 & 4-57-17 I
found post & B Ts all standing.
Continuing on same line East.
2040.0 intersection of random line ith D. M. & N. Ry centre
line, angle to right 38 degrees 05 minutes
4080 enter Cedar Island Lake.
6123.8 to a point 439 ft North of meander Cor. to fractional

Sec. 2 & 35 angle 90 degrees I found post & B. Ts standing.

6310 Leave Cedar Island Lake & enter hardwood bush.
1186 to a point 373 North of ¼ Cor. North side Sec. 2-57-17. angle 90 degrees to corner. Measured distance across
374 Lake on true line between Meander Cors. is 1986 ft.
112.7 Meander Cor. on North side of Lake was set by
260.3 J. W. Silliman.
724 2718 to a point 112.7 North of cor. to Sec. 1 & 2-57-17 & 35 & 36-58-17 angle 90 degrees to said corner I found post & B. Ts O K.
2613.3 to a point 115.4 South of ¼ cor North side Sec. 1-57-17 located Cor. from B. Ts found standing
2636.6 to a point 386.3 South of cor. to Tps 57 & 58 N. Ranges 16 & 17 W.
155.4 found post & B. Ts standing angle to corner 90 degrees.
386.3
230.9

	145	30928.2		2546.8	
	17725	186.8		2613.7	
	322.25	30741.4		2587.5 –	5201.2
725				2628.5 –	7829.7
			2	2592.5 –	10422.2
	161.25	538.3		2595.3 –	13017.5
		32049.4	6123 –	6310	19327.5
		84.5		1186	20513.5
				2618	23131.5
		32672.2		2613.3	25741.8
				2637.6	28881.4
				30938.2E	
				31594 S	21391.5

Commencing at Tps cors 57 & 58 Ranges 16 & 17 run
726 South on a random line Var 7 degrees 30 minutes E.
700 Enter swamp bears E. & W.
2624
2652.6 to a point 50.5 ft West of ¼ Cor. East side Sec. 1
5276.6
13 angle 90 degrees found post & B Ts standing
5289.6 to a point 107 West of Cor to Sec 1 & 12 on East
387.28
4902.3 Exterior line angle to cor 90
Found post & B T's standing

2640 to a point 145 ft West of ¼ cor East side Sec 12
2625.12 found post & B Ts standing.
5265.12

175°48′
5253.12
89°48′161.25

1400 Leave swamp bears E. & W.
2640 to a point opposite where Sec Cor should be but
2650.25 could

5250.25 2640 727
2625.12 2650.25 177.5 2640
145 2610.25
5250.25 161.25 2625.12
2625.12—161.25

not find the cor to Secs 12 & 13.
1600 enter swamp bears N. W.
2610.25 to a point 177.5 West of ¼ Cor E side Sec 13
angle 90 degrees.
Found post & B Ts standing br S E.
510 Leave swamp bears E. & W.
920 Enter swamp bears N. E. & N. W. 728
2000 Leave swamp bears E. & W.
2641.5 to a point 163 ft West of cor to Sec 13 & 24.
found post & B Ts standing.
2640 to a point opposite where ¼ cor East side Sec 24.
ought to be did not find post or cor.
460 Enter swamp brs E & W.
1520 Leave swamp brs E & W.
2000 Enter swamp brs N. E. & S. W.
2640.5 to a point 145 ft West of cor to Secs 24-25 19 &
30 found post & two B T's standing
400 Leave swamp brs E & W.
1320 Creek 8' wide N W & S E.
1445 Creek 12' wide runs S. W. 729
1595 Creek 15' wide runs S E.
1770 North bank St. Louis River.
1880 South bank St. Louis River.
River runs S. 70 degrees W.
2645 West point West of where ¼ cor East side of Sec.
25 ought to be—corner is obliterated.
1650 enter swamp bears E & W.
2620.5 to a point 75 ft West of cor to Sec 25 & 36-57-17.
found B Ts standing.

West from cor to Sec 25 & 36 on a random line angle
90 degrees br 8 degrees E.
2640 hub for temporary ¼ cor.
2077 to a point 109 ft South of meander cor on left bank of St. Louis River cor to fractional Sec 25 & 36.
2210 to left bank of St. Louis River bears N. E. & S. W.
2350 to rigt bank of St. Loouis River.
2581 to a point 118 ft South of cor to Sec 25-26-35 & 36. angle 90 degrees—I found post & B Ts standing
730 South on random line between Secs 35 & 36.
600 right bank St. Louis River bears S 60 W.
652 to a point 41 ft East of Meander cor right bank St. Louis river cor to fractional Sec. 35 & 36 br 8 degrees.
Located corner from W. Pine 18 minutes N 23 degrees E 6 lks found standing
775 Left bank St. Louis river
1600 Enter swamp bears E. & W.
2600 Leave swamp bears E. & W.
2640 hub for temporary ¼ cor
731 This corner is obliterated—
2599.2 to a point 153.5 East of cor to Secs 35 & 36 angle 90 found corner O K.
2602.7 to a point on South line passing through to Sec 35 & 36.
West on South Exterior line commnecing at cor to Secs 35 & 36.
2657.5 hub. (corner not definite)
Ver. 8 degrees.
905 to a point 6.5 ft South of meander cor on left bank of St. Louis River angle 90 found B T's standing
1029.5 to a point 7.3 ft South of M. C. on right bank of St. Louis River angle 90 degrees found B T's standing
732 River bears N. 5 E.
2583 to a point 15 ft South of Cor. to Sec. 35 & 34 located
5240.5 cor frrom old B T's found standing I found post
153.5 set by a surveyor 47 ft W & 12 ft North of where I make
6394 corner.
100 entered swamp N W & S W.
2637.5 to a point 18.5 South ¼ cor South side sec 34.
7768 found post & B Ts standing.

Continuing West on same line

2627.5
2626
2640
2595.5
21.8
10510.8

2100 leave swamp.
2626 to a point 1.5 ft South of or to Sec 33 & 34. 733
10494 found B Ts standing & located corner frrom there

2640
2595.5
5285.5
21.6
5257.1

2640 to a point opposite to where ¼ cor ought to be, did not find said cor.
160 enter swamp brs N. E.
2595.5 to a point 20 ft South of Cor to Sec 32-33-57-17 734
15729.5 located cor from B Ts stumps standing in place.
7824 Set post—established new B Ts as follows.
Tam 4 minutes N 47 E mag 36 lks.
Tam 3 minutes N. 53 W mag 24 lks.

2640
2640
2544
7824
2608
2667
5275 735

2640 hub for temporary ¼ cor did not find cor or B Ts saw no evidence of old line
1700 leave swamp S W & N E.
hub for temporary cor to Secs 31 & 32 no evidence at this point of post. Bts or old line
344 to a point 111 ft south of ¼ cor South side of
28553.5 Sec 31—Located corner from B T's found standing B.

Ash N 42 W.

2667 to a point 84.5 south of cor

26220.5 to Sec 31 & 36 between Range 17 & 18.

2657.5	2667	111	2640
2583	2544	20	2640
2627.5	2640	—	2544
2626	—	3)91	—
2640	1049	30⅓	7824
2595.5		111	—
2640		—	2608
736 2640		80⅔	5316
2544			28
2667			—
—			5188
26220.5			21.6
153.5			—
—			5166.4

North on random line commencing at Cor to Sec 31 &

36 between ranges 17 & 18 br 6 degrees E.

75 Stream 20 ft wide brs S W & N E.

865 Stream 20 ft wide brs S E & N E.

2640 Hub for temporary ¼ cor West side Sec 31—No

737 sign of cor or B Ts or line at this point.

2640 Hub for temporary cor to Secs 30 & 31.

1050 Enter swamp brs E & W.

1225 Leave swamp brs E & W.

2640 Hub for ¼ corner West side Sec 30.

550 Enter swamp N. E. & S. W.

650 Stream 20 ft. wide runs S. W.

2640 Hub for temporary cor. to Sec. 19 & 30-br 8 degrees E.

750 Leave swamp brs E. & W.

2270 Enter swamp brs N E & S W.

2600 Leave swamp brs N E & S W.

738 2640 Hub for temporary ¼ cor W. side Sec 19.

150 enter swamp N W & S E.

500 leave swamp brs E & W.

2841.5 to a point 162 ft East of Cor to Sec 18 & 19 found post & two B Ts.

796 to a point 132.7 East of M. C. on South shore of lake

which I re-established as follows:

Spruce 5 minutes S 9 degrees mag 106¼ lks.

Spruce 5 minutes S 30 degrees E mag 95 lks.

Spruce 5 minutes N 13 degrees E mag 18 lks.

Spruce 4 minutes N 46 degrees W. mag 12 lks.

2640.2 North shore of lake.

established M C.

Spruce 5 N 13 30 E 18

Spruce 4 N 46 W 12 L.

2640.2 Enter swamp E & W.

2760 to a point 57.7 East of ¼ cor West side of Sec 18.

found post & B Ts standing 11 E. Sec 18, 19, 13 & 24.

Spruce 4 minutes S 47 degrees E. mag 18 lks.

Tam 5 minutes S 27 degrees W mag 37 lks. 739

Poplar 5 minutes N 23 degrees E mag 19 lks.

Poplar N 81 degrees E mag 40 lks.

500 Leave swamp.

1541 D M & N Ry angle left 89 degrees 14 minutes.

2616.5 to a point 82 ft west of cor to Sec 7 & 18 found cor standing br 10 degrees E.

2689.2 to a point 91.2 West of ¼ cor

Must have set ¼ S on line midway. West side Sec 7 br 11 degrees E.

Established new B Ts as follows:

Poplar 6 S 57 30 E mag 17 lks.

W. Birch 5 N 22 E mag 16 lks.

2689.2 to a point 100.5 ft West of cor to Sec 6, 7-1-12 740

found post and B Ts standing br 11 degrees E.

2025 Stream 15 ft wide runs S W.

2626 to a point 111 ft West of ¼ cor

-80

25'52" West side Sec 6 br 10 degrees E.

2627 to apoint 46.5 ft East of cor to Tps 57 & 58 Ranges 17 & 18.

2627
2626 - 3253
2689.2- 7942.2
2689.2-10631.4
2616.5-13247.9
2760 -16007.9
2841.5-18849.4 741
2640 -21489.4
2640 -24129.4
2640 -26769.4
2640 -29409.4
2640 -32049.4

049.4
32

Subdivision of 57-17.

commencing at cor.

Sta° to Sec 6 & 7 on west side of Town and running East
br 12 degrees.

0 to 1 2640 hub.
1854.4 hub opposite new corner

1 - 2 2640 hub.

5280

2 - 3 2640 hub.

7920

742 2283–10203 ft.

3 ▲ 255 stream 12 ft wide runs S.

7920 38005

3 ▲ 2283 D M & N Ry angle 36 minutes 26' left.

10203 1 min. 39'

–10560

3 - 4 2640 tack in Aspen stump.

10560

4 - 5 2684.6 hub West shore of Lake.

13244.6

743

5 - 6 2604.35 hub East shore of Lake.

15848.95

6 - 7 1421 hub.

17.270

7 ▲ 2050 enter swamp.

17270

7 - 8 2568.5 hub on West shore of Lake.

19838.5

8 - 9 1044.89 hub on East shore of lake.

744 20883.4

9 ▲ 232 stream 25' runs N. E.

21.115.4

9 ▲ 437 stream 25' runs N. E.

21320

9 - 10 2148.7 hub.

10 ▲ 650 enter

10 - 11 2461.6 hub.

11 - 12 1777.4 hub.

12-13 1345.5
13-14 2124.3 intersection of random lines.
14 a 107.0 hub at 90 degrees to cor to secs 1 & 12 18 ft South of cor.

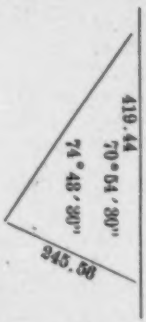
10560				
2684.6				
7604.35				
5421				
2568.5				
1044.9				
2148.7				745
2461.6	30740.84			
1777.4	100.5			
1345.5			110.97	
2124.3	30841.35	—	82	
	193.97			
30740.84	30648.37		192.97	
107	406.21			
			244.96	
30847.84	31054.58 meas.		161.25–why–?	

	1 Given 31700.46				
Sec. 7-18	32700.46	31054.58	: :	5268.6	5146.56
" 8-17	"	"	: :	5299.8	5191.82
" 9-16	"	"	: :	5298.48	5190.53
" 10-15	"	"	: :	5286.6	5178.89
" 11-14	"	"	: :	5270.1	5162.63
" 12-18	"	"	: :	5291.88	5184.06
				31700.46	31054.59

746

Commencing at a point 5 ft south of cor to secs 5 & 6
on Town line and run south between Sec 5 & 6.
0-1 2640 hub on line.
1-2 2640 hub not on line.
2 a 360.55 intersection of random lines.
2-3 2640 hub on line. 747
7920
3 a 1447.6 D M & N Ry angle 55 degrees R.
9367.6
3-4 2640 hub (small fir stump)
not on line.
4 a 1535 stream 10' runs S W.
4 a 1635 stream 10' runs S E.
4 a 1683 stream 20' runs S 15 degrees W.

4 ▲ 1760 stream 20' runs S. E.
4 - 5 2640 hub not on line.
5 ▲ 655 stream 6 ft runs S E.
5 ▲ 1800 enter swamp brs S W & N E.
5 ▲ 2065 leave swamp brs N W & S E.
5 - 6 2640 hub not on line.
6 ▲ 1020 enter swamp brs N E & S W.
6 ▲ 1830 leave swamp brs E & W.
6 - 7 2640 hub on line.
7 ▲ 236.2 hub on line for triangulation.
748 7 ▲ 325 to shore of lake.
7 ▲ 655.64 hub on line South side.
of Lake.



18805–Shore
7 & 236.2–18716.2

	18.480
	2640
	2640
	2640
	6033
	32433
	20
Sec. Cor.	32413

749

7 - 8 2640 hub not on line.
8 - 9 2640 hub on line.
9 ▲ 460 enter swamp brs N W & E.
9 - 10 2640 hub not on line.
10 ▲ 1330 leave swamp brs N E & S W.
10 - 11 6033 to intersection of random.

26400 6

32433–Sc ft–32353.4

750 line south of Town line.
Established cor to Sec 31 & 32.
South side of 57-17 from which
Poplar 4 minutes N 35 mag 19 ft.
Poplar 5 minutes N 67 W mag 29 ft.

	2640
	2640
	2558.44
	2721.56
	1301
	11861.00

North & South line between Secs 4 & 5 commencing
at a point on random line 495 ft South of cor Sec. 4 & 5 on Town line N. Range 17 & running South.

0-1 2640 hub on line.

1-2 2640 hub on line.

55° 00
2▲ 641.7 D M & N Ry angle 54 degrees 55 right.
0° 05′

5921.7

751

2▲ 703.8 intersection of random lines.

5983.8

2-3 2558.44 hub on line.

3▲ 1300 enter swamp.

3▲ 2000 leave swamp.

−10560

3-4 2721.56 hub on line.

−11861 −11911

4▲ 1301 hub 50 ft North of North shore of St. Mary's Lake.

10560

752

4-5 2674.82 hub on North shore of Lake.

13234.82

5▲ 90.65 hub on South side of point & North shore of

13325.47
13234.82

Lake.

5▲ 2331.41 hub on South Shore of Lake.

15,566.23

5-6 2798.83 hub.

6-7 2808.83 tack in aspen stump not on line.

753

7▲ 450 enter swamp brs E. & W.

7▲ 1050 leave swamp brs N W & S E.

7▲ 1825 enter swamp brs N W & S E.

7▲ 2400 leave swamp brs N W & S E.

7-8 2902.5 hub on line.

8-9 2700 hub on line.

9-10 3026 hub on line.

10▲ 666.2 hub on line.

10▲ 710 to north shore of lake.

11▲ 1500 enter swamp brs E & W.

11 ♣ 3211.6 hub intersection of random line South side 57-17

2040 32681.75
2040 495
2558.44 ——— —
2221.56 32186.75 93°9985°
2674.82 634.96
2798.83 ——— 183° 82.23
2808 6)31551.9
2903.5 5258.63 90°15 10610.6
2700 0°15 15
3026
3211 6 6)31649.38
5275
32681.75 450.64 21.34
32681.75 20
33153.73 (6 32661.75
30847.84
25707.48
657.88
31038.06 5140.36

9951.44E-43-9947.14
521.54S
83.125
4.3W
10610.6E
46.3S 31.3S
15N

1° 12½E 10610.6
94° 12½E 9947.14
Call 94010
663.5
31°551.8

754

31685.94 given distance E & W line.
755 30847.84 measured distance E & W line.

838.10

Sec. 6 given 5256.9 propl dist 5117.85.
Sec 5 given 5301.12 propl dist 5160.90.
Sec 4 given 5280 propl dist 5140.34.
5140.36

Sec 2 given 5280 propl dist 5140.34.
Sec 1 given 5287.92 propl dist 5148.05.
25707.48
30846.84

756 North & South line—

Given.	Measured.	Proportl.
	31701.18	
31701.18	32352.4	
	651.22 Surplus	
Bet 5 & 6 5301.78		5410.6
5280		5388.36
5280		5388.36
5280		5388.36

5280 5388.36
5280 5388.36
East & West Line—
No 2—162.15 or W.
No 4—281.25 or W.
No 6—429.86 or W.
No 9—323.91 or W.
No 11—206.13 or E.
N & S Line—
No 2—130.60.
No 4—238.96. 757
No 6—347.32.
No 8—455.68.
No 10—564.04.
Line between 4, 5, 8, 9, 16, 17—

Given	Measured	Given	Proptl
31693.86	32658.05	5293.86	5454.90

32658.05 — 31693.86 = 964.19
494.7 — 32658.05 = 32163.35
20 — 32678.05 = 494.7
32183.35 — 32183.35 = 20

5280 5440.63 758

No 2 174.9.
No 4 335.53.
No 6 302.51.
No 8 32.64.
No 10 252.73.
Corner to Secs 5, 6-7 & 8-57 17.
B. Ash 4 N 22 degrees E mag 15 ft.
B. Ash 6 N 63 degrees W mag 24.8 ft.
B. Ash 6 S. 47 degrees E mag 4.8 feet.
B. Ash 5 S 50 degrees W mag 31.6 ft.
Corner to Secs 4, 5, 8, 57-17.
Birch 8 minutes S 88 degrees E. mag 36 ft. 759
Maple 7 minutes S 41 degrees W mag 25 ft.
Linden 5 minutes N 55 degrees W mag 67 ft.

Cedar 8 minutes N 31 degrees E mag 52.7 ft.

488°00	1215.8	270.16	1214.18	943.97		63.63
273°00	5162	.55	32183.35	33127.32		5154.93
180°	32183.35		2294	33150.26	5257.1	
30"15	5257.1			33148.76		
6"00	15				4.3	
3"00	82.24	82.13	603.66N			
273"00	9965.1	521.53	31579.69		5218.56	
	32183.35		31625.55		38.54	
90.15	10510.6	45.86	15 10510.6			
				9951.44	9947.14W	
			6)31610.55–5268.4		563.46E	

760

Here notes are meagre in that

(1). Directions given North, South, East & West. to not state any method to show that lines were run in those directions & in fact they were not but merely in an easterly direction etc as the case may be. (N. W. line approx S. 87 15 minutes E.

(2). No angles are given at Tp corner or where direction changes.

(3). Distances in the body of the notes across Tp do not agree with summary line on page 19 etc with distances for same line on page 22. This same line at its intersection with the south body shows no angle with that body and gives no dist. to the cor 32 & 33.

761

In default of any showing of direction take distances as opposite page 24 (same as exhibit)

On page 20 is there a sta worked 11? if so how long?

762

COMPLAINANT'S EXHIBIT "E."

Offered in evidence on page 170.

(Com. Exhibit E.)

Auditor's Office, St. Louis County,
Duluth, Minn., Feb. 7th, 1894.

The Board of County Commissioners met at two o'clock p. m. this day, pursuant to call.

All members being present.

..... 763

.....

.....

In the matter of the re-survey of Township fifty-seven (57), Range seventeen (17), St. Louis County, Minn.

To the Honorable, the Board of County Commissioners, St. Louis County, Minn.

Gentlemen: We, the undersigned residents of said county, and property owners, lessees, or otherwise interested in Township fifty-sevn (57), Range seventeen (17), said county, respectively petition your honorable body to cause the County Surveyor to make a re-survey of said township.

We make this request for the reason that the quarter corners and section numbers in the interior of the town and except on township and range lines have become obliterated and are absent from said town, and it is absolutely impossible under the present condition therein existing to define with any certainty the limits of property therein situate. 764

Your petitioners further show that important explorations are now being made by various owners of or by option, lease or otherwise on said lands, for the discovery of iron ore or mineral deposits therein contained.

That owing to the condition of the lack of proper descriptions of said lands, as above stated, much confusion and uncertainty have arisen and are likely to arise in the future, and to avoid this and to further and encourage the work of said explorations so that parties engaged in said work of exploration may have the fullbenefit of their holding and labors therein without any collisions, disputes or legal complications liable to arise if such re-survey be not made, and believing it for the true interest of all concerned, as well as the county at large, 765

Your petitioners ask that your honorable body will order such re-survey to be made at once and make such provision as may be necessary to cause said work to be done correctly

and expeditiously, and your petitioners will ever pray, etc.

Dated, Duluth, Minnesota, January 2d, 1894.

David T. Adams, J. C. Foley, James T. Hale, Richard Schell, Alfred Merritt, John Helmer, Jessie Norton, L. B. Manley, J. H. James, R. H. Palmer, Geo. W. Buck, Coffin & Warner, J. E. Merritt, E. C. Gridley, John D. Stryker.

On motion, the petition was accepted, and the county surveyor was instructed to locate section corners in said township 57-17 according to law.

766 .....

.....

On motion, the Board adjourned until 9:30 o'clock a. m. next day.

February 8th, 1894.

The Board of County Commissioners met at 9:30 a. m. this day, pursuant to adjournment.

All members present.

On motion, the Board adjourned.

Approved:

C. POIRIER,
Chairman Board County Commissioners.

767 Attest:

GEO. N. LA VAQUE,
County Auditor.

STATE OF MINNESOTA,)
County of St. Louis.)

I, O. Halden, county auditor of the said County of St. Louis, and by virtue of my said office, clerk of the Board of County Commissioners of said county, and custodian of the records of said Board, do hereby certify that I have compared the annexed copy of the record of a resolution, and on proceedings relating thereto, of the Board of County Com-
768 missioners aforesaid with the original record thereof now of record in my said office in the county aforesaid, and that the same is a true copy thereof, and of the whole of said original record of said resolution.

In testimony whereof, I have hereunto affixed the seal of the office of said county auditor and signed my name this 9th day of January, A. D. 1899.

O. HALDEN,
County Auditor of the County of St. Louis, State of Minnesota.

(Official Seal.)

COMPLAINANT'S EXHIBIT "F."

Offered in evidence on page 183.

THE UNITED STATES TO ADDISON G. PETRIE.

The United States of America, to all to whom these presents shall come, greeting:

Homestead Certificate No. 1006.)
Application 1540.)

Whereas there has been deposited in the General Land Office of the United States a certificate of the register of the Land Office at Duluth, Minnesota, whereby it appears that, 769
pursuant to the Act of Congress approved 20th May, 1862, "to secure homesteads to actual settlers on the public domain," and the acts supplemental thereto, the claim of Addison G. Petrie has been established and duly consummated, in conformity to law, for the lot numbered one of section three, the lot numbered eight of section four, and the lot numbered four of section nine, in township fifty seven north, of range seventeen west, of the Fourth Principal Meridian in Minnesota, containing ninety-five acres ad eighty-five hundredths of an acre, according to the official plat of the said land, returned to the General Land Office by the surveyor general.

Now know ye, that there is, granted by the United States 770
unto the said Addison G. Petrie, the tract of land above described: To have and to hold the said tract of land, with the appurtenances thereof, unto the said Addison G. Petrie and to his heirs and assigns forever.

In testimony whereof, I, Chester A. Arthur, president of the United States of America, have caused these letters to be made patent, and the seal of the General Land Office to be hereunto affixed.

Given under my hand, at the City of Washington, the twentieth day of February, in the year of our Lord one thousand eight hundred and eighty-two, and of the independence of the United States the one hundred and sixth. 771

By the President:

CHESTER A. ARTHUR.

By WM. H. CROOK, Secretary.

S. W. CLARK,

Recorder of the General Land Office.

Recorded, Vol. 3, Page 1.

OFFICE OF REGISTER OF DEEDS,)
County of St. Louis.)

I hereby certify that the within patent was filed in this

office for record on the 10th day of April, A. D. 1883, at 2 o'clock p. m., and was duly recorded in Book B of Patents, page 577.

J. A. MANNHEIM,
Register of Deeds.
By ....., Deputy.

COMPLAINANT'S EXHIBIT "G."

Offered in evidence on page 183.

772 Book A of Powers, page 350.

ADDISON G PETRIE TO C. B. CHANDLER.

POWER OF ATTORNEY.

Filed for record June 24th, A. D. 1880, at 12 m.

Know all men by these presents, that I, Addison G. Petrie, of the County of Wright, State of Minnesota, do hereby make, constitute and appoint Columbus B. Chandler, of the County of Kent, State of Michigan, my true and lawful attorney, hereby authorizing and empowering my said attorney to sell, upon such terms as to him shall seem meet, any lands which I now own, either in law or equity,
773 and obtained by me as an "additional homestead," under the provisions of Section 2306 of the Revised Statutes of the United States, and to sell any of such lands as I may hereafter acquire under such acts, and to receive the purchase money, or other consideration therefor, and upon such sale, to make, sign, seal and deliver in my name all such deeds or other assurances in the law therefor as to him shall seem meet and necessary. And I further authorize and empower my said attorney to receive, accept, and take possession of all lands hereinbefore mentioned, and to prosecute and defend, at his own cost, any suit or action respecting the same or for the breach of any contract in relation thereto, or for any trespass thereupon, or injury thereto, of any nature or
774 description whatsoever.

And my said attorney is hereby authorized to sell said lands, or any interest therein, and to make any contract in relation thereto, which I might make if present; and to receive for his own use and benefit any moneys or other property the proceeds of the sale of said lands, or any intesest therein, or arising from any contract in relation thereto, or received or recovered for any injury thereto; and I hereby release to my said attorney all claim to any of the proceeds of such sale, lease, contract or damages. And I

further authorize my said attorney to appoint a substitute or substitutes to perform any of the foregoing powers. And in consideration of the sum of Two Hundred Dollars, lawful money, to me in hand paid by the said Columbus B. Chandler, the receipt whereof is hereby acknowledged, this power of attorney, and each and every power contained herein, is made and hereby declared to be irrevocable by me or in my name or otherwise. The lands hereinbefore referrd to are the following, viz.:

Lot N. one (1), Section 3; Lot No. eight (8), Section 4; and Lot No. four (4), Sec. 9, Township No. 57 N. of Range No. 17 W., in the County of St. Louis, State of Minnesota, containing 95 85-100, more or less, according to the government survey thereof. Hereby ratifying and confirming all that my said attorney or his substitute may lawfully do or cause to be done by virtue of these presents. In witness whereof, I, the said Addison G. Petrie,and Henrietta, the wife of said Addison G. Petrie, in token of her release of all rights of dower and homestead exemption in the premises, have hereunto set our hands and seal this 30th day of November, A. D. 1879. 775

ADDISON G. PETRIE. (Seal.)
HENRIETTA PETRIE. (Seal.) 776

Signed, sealed and delivered in presence of
S. CHASE.
W. CHILDS.

STATE OF MINNESOTA,)
County of Wright.)

On this 30th day of November, A. D. 1879, before me, clerk of court, personally appeared Addison G. Petrie, known to me to be the person whose name is subscribed to the within instrument, and acknowledged to me that he executed the same. Also personally came before me Henrietta Petrie, wife of said Addison G. Petrie, party to the foregoing instrument, and being first fully made acquainted with the contents of the same, in an examination separate and apart from her said husband, acknowledged that she executed the same freely, and signed and sealed the relinquishment of dower in and to whatever estate she may have in the premises, without compulsion or undue influence from her hus- 777

band. In witness whereof, I have hereunto set my hand and affixed my official seal, the day and year first above written.

GEO. A. HOFFMAN,
Clerk of Court,
Wright Co., Minn.

(Official Seal.)
STATE OF MINNESOTA,)
County of St. Louis.)

778 I, Peter J. Borgstrom, register of deeds of said county, do hereby certify that the within is a true and correct copy of the records in my office, as found in Book A of Powers, on page 350. That I have compared such copy with the original record, and that it is acorrect transcript therefrom.

Dated this 11th day of June, A. D. 1895.

P. J. BORGSTROM,
Register of Deeds,
By R. O. LOE, Deputy.

COMPLAINANT'S EXHIBIT "H."

779 Offered in evidence on page 184.

A. G. PETRIE AND WIFE TO P. M. GRAFF AND D. E. LITTLE.

Filed for record June 24th, A. D. 1880, and recorded in Book "L" of Deeds, page 548.

This indenture, made this twenty-sixth day of May, in the year of our Lord one thousand eight hundred and eighty, between Addison G. Petrie and Henrietta Petrie, his wife, of the County of Wright, State of Minnesota, party of the first part, and Philip M. Graff and Daniel E. Little, of the County of Kent, State of Michigan, parties of the second part.

780 Witnesseth, that the said parties of the first part, in consideration of the sum of One Hundred Dollars to them in hand paid by the said parties of the second part, the receipt whereof is hereby acknowledged, do hereby grant, bargain, sell and convey unto the said parties of the second part, their heirs and assigns, forever, all those tracts or parcels of land lying and being in the County of St. Louis and State of Minnesota, described as follows, to-wit:

Lot No. one (1), Section three (3); Lot No. eight (8), Section four (4), and Lot No. four (4), Section nine (9), Township

No. 57 N. of Range No. 17 West; containing ninety-five and 85-100 acres (95 85-100), or less, according to the government survey thereof.

To have and to hold the same, together with all the hereditaments and appurtenances thereunto belonging or in anywise appertaining, to the said parties of the second part, their heirs and assigns, forever. And the said Addison G. Petrie and Henrietta Petrie, his wife, parties of the first part, for their heirs, executors and administrators, do covenant with the said parties of the second part, their heirs and assigns, that they are well seized in fee of the lands and 781
premises aforesaid, and have good right to sell and convey the same in manner and form aforesaid; that the same are free from all incumbrances, and the above bargained and granted lands and premises, in the quiet and peaceable possession of the said parties of the second part, their heirs and assigns, against all persons lawfully claiming or to claim the whole or any part thereof, the said parties of the first part will warrant and defend.

In testimony whereof, the said parties of the first part hereunto set their hands and seals the day and year first above written.

ADDISON G. PETRIE. (Seal.)
HENRIETTA PETRIE. (Seal.) 782
By COLUMBUS B. CHANDLER, (Seal.)
Attorney in Fact. (Seal.)

Signed, sealed and delivered in presence of
T. H. PRESSNELL,
JOHN McKINLEY,
Witnesses.

STATE OF MINNESOTA,)
County of St. Louis.)

I, Luther Mendenhall, a notary public within and for said county, do hereby certify that on this 26th day of May, A. D. 1880, personally came before me Columbus B. Chand- 783
ler, attorney in fact of Addison G. Petrie and Henrietta Petrie, to me well known as the same person described in and who executed the foregoing deed, and acknowledged that he executed the same freely and voluntarily as and for the act and deed of the said Addison G. Petrie and Henrietta Petrie.

LUTHER MENDENHALL,
Notary Public,
Saint Louis County, Minn.

(Notarial Seal.)

STATE OF MINNESOTA,)
County of St. Louis.)

I, Peter J. Borgstrom, register of deeds of said county, do hereby certify that the within is a true and correct copy of the records in my office, as found in Book L of Deeds, on page 548. That I have compared such copy with the original record, and that it is a correct transcript therefrom.

Dated, this 10th day of June, A. D. 1895.

P. J. BORGSTROM,
Register of Deeds.
784 By B. O. LOE, Deputy.

(Official Seal.)

COMPLAINANT'S EXHIBIT "I."

Offered in evidence on page 184.

The United States of America, to all to whom these presents shall come, greeting:

Homestead Certificate No. 1004.)
Application 1538.)

Whereas there has been deposited in the General Land Office of the United States a certificate of the register of the
785 Land Office at Duluth, Minnesota, whereby it appears that, pursuant to the Act of Congress, approved 20th May, 1862, "to secure homesteads to actual settlers on the public domain," and the acts supplemental thereto, the claim of Henry Koecher has been duly established and duly consummated, in conformity to law, for the lot numbered two, of section three, and the lot numbered one, of section four, in township fifty-seven north, of range seventeen west, of the Fourth Principal Meridian in Minnesota, containing one hundred and five acres and thirty-five hundredths of an acre, according to the official plat of the survey of the said land, returned to the General Land Office by the surveyor general.

786 Now, know ye, that there is, therefore, granted by the United States unto the said Henry Koecher the tract of land above described: To have and to hold the said tract of land with the appurtenances thereof, unto the said Henry Hoecher and to his heirs and assigns forever.

In testimony whereof, I, Chester A. Arthur, president of the United States, have caused these letters to be made patent, and the seal of the General Land Office to be hereunto affixed.

Given under my hand, at the City of Washington, the twentieth day of February, in the year of our Lord one thousand eight hundred and eighty-two, and of the independence of the United States the one hundred and sixth.

By the President:

CHESTER A. ARTHUR.

By Wm. H. Crook, Secretary.

(Official Seal.)

S. W. CLARK,

Recorder of the General Land Office.

Recorded, Vol. 2, Page 499. 787

OFFICE OF REGISTER OF DEEDS,)
County of St. Louis.)

I hereby certify that the within patent was filed in this office for record on the 10th day of April, A. D. 1883, at 2 o'clock p. m., and was duly recorded in Book B of Patents page 576.

J. A. MANNHEIM,
Register of Deeds,
By ....., Deputy.

(Official Seal.)

788

COMPLAINANT'S EXHIBIT "J."

Offered in evidence on page 184.

UNITED STATES OF AMERICA TO JAMES H. RUTTLE.

Book A of Patents, page 268.
Filed for record April 21st, 1883, at 10 a. m..

PATENT.

The United States of America, to all to whom these presents shall come, greeting:

Whereas, in pursuance of the Act of Congress approved March 3, 1855, entitled "An act in addition to certain acts granting bounty land to certain officers and soldiers who have been engaged in the militia service of the United States," there has been deposited in the General Land Office Warrant No. 36351, for 80 acres, in favor of Fitch R Hunt, private, Captain Battle's Company Tennessee Militia War, with evidence that the same has been duly located upon the southeast quarter of the northwest quarter and the northeast quarter of the southwest quarter of Section ten, in Township fifty-seven north of Range seventeen west of the Fourth Principal Meridian, in the district of lands 789

subject to sale at Duluth, Minnesota, containing eighty acres, according to the official plat of the survey of the said land returned to the General Land Office by the surveyor general; the said warrant having been duly assigned to James H. Ruttle as aforesaid, and to his heirs, the tract of land above described: To have and to hold the said tract of land, with the appurtenances thereof, unto the said James H. Ruttle, as assignee of aforesaid, and to his heirs and assigns forever.

In testimony whereof, I, Chester A. Arthur, president
790 of the United States of America, have caused these letters to be made patent, and the seal of the General Land Office to be hereunto affixed.

Given under my hand, at the City of Washington, the thirtieth day of March, in the year of our Lord one thousand eight hundred and eighty-three, and of the independence of the United States the one hundred and seventh.

By the President:

CHESTER A. ARTHUR.

By O. L. JUDD, Asst. Sec'y.

(Seal.)

S. W. CLARK,

Recorder of the General Land Office.

791 Recorded, Vol. 549, page 488.

STATE OF MINNESOTA,)
County of St. Louis.)

I, R. S. Munger, register of deeds of said county, do hereby certify that the within is a true and correct copy of the records in my office as found in Book A of Patent, on page 268. That I have compared such copy with the original record, and that it is a correct transcript therefrom.

Dated this 7th day of January, A. D. 1899.

R. S. MUNGER,

Register of Deeds,

792 By S. L. PIERCE, Deputy.

(Official Seal.)

COMPLAINANT'S EXHIBIT "K."

Offered in evidence on page 184.

The United States of America, to all to whom these presents shall come, greeting:

Certificate No. 2086.

Whereas James H. Ruttle, of St. Louis County, Minne-

sota, has deposited in the General Land Office of the United States a certificate of the register of the Land Office at Duluth, Minnesota, whereby it appears that full payment has been made by the said James H. Ruttle, to the provisions of the Act of Congress of the 24th of April, 1820, entitled "An act making further provision for the sale of public lands," and the acts supplemental thereto, for the Lots numbered one and two, of Section ten, in Township fifty-seven north, of Range seventeen west, of the Fourth Principal Meridian, in Minnesota, containing sixty-eight acres according to the official plat of the survey of said 793
lands returned to the General Land Office by the surveyor general, which said tract has been purchased by the said James H. Ruttle.

Now know ye, that the United States of America, in consideration of the premises, and in conformity with the several Acts of Congress in such case made and provided, have given and granted, and by these presents do give and grant, unto the said James H. Ruttle, and to his heirs, the said tract above described: To have and to hold the same, together with all the rights, privileges, immunities and appurtenances, of whatsoever nature, thereunto belonging, unto the said James H. Ruttle, and to his heirs and assigns for- 794
ever.

In testimony whereof, I, Chester A. Arthur, president of the United States, have caused these letters to be made patent, and the seal of the General Land Office to be hereunto affixed.

Given under my hand, at the City of Washington, the thirtieth day of March, in the year of our Lord one thousand eight hundred and eighty-three, and of the independence of the United States the one hundred and seventh.

By the President:

CHESTER A. ARTHUR.

By O. L. JUDD, Asst. Secretary.

(Official Seal.) 795

S. W. CLARK,

Recorder of the General Land Office.

Recorded, Vol. 5, page 306.

OFFICE OF REGISTER OF DEEDS,)
County of St. Louis.)

I hereby certify that the within patent was filed in this office for record on the 21 day of April, A. D. 1883, at 10

o'clock a. m., and was duly recorded in Book B of Patents, page 307.

J. A. MANNHEIM,
Register of Deeds,
By J. C. VAN NORMAN, Deputy.

(Official Seal.)

COMPLAINANT'S EXHIBIT "L."

Offered in evidence on page 184.

796

WARRANTY DEED.

James H. Ruttle to Chas. A. Moore.

Filed for record January 6th, A. D. 1880, at 9 o'clock a. m., and recorded in Book "L" of Deeds, page 410.

This indenture, made this third day of January, in the year of our Lord one thousand eight hundred and eighty, between James H. Ruttle, a single man, of the County of Saint Louis, State of Minnesota, party of the first part, and Charles A. Moore, of the County of Ramsey, State of Minnesota, party of the second part.

Witnesseth, that the said party of the first part, in con-
797 sideration of the sum of three hundred and fifty ($350) dollars to him in hand paid by the said party of the second part, the receipt whereof is hereby acknowledged, does hereby grant, bargain, sell and convey unto the said party of the second part, his heirs and assigns, forever, all those tracts or parcels of land lying and being in the County of St. Loui and State of Minnesota, described as follows, to-wit:

Lots numbered one (1) and two (2) and the South East quarter (S E ¼) of the North West quarter (N W ¼) and the North East quarter (N E ¼) of the South West quarter (S W ¼) of Section No. ten (10) in Township No. fifty-seven (57) N. of Range No. seventeen (17) West of the Fourth (4th) Principal Meridian.

798 To have and to hold the same, together with all the hereditaments and appurtenances thereunto belonging or in anywise appertaining, to the said party of the second part, his heirs and assigns, forever. And the said James H. Ruttle, party of the first part, for his heirs, executors and administrators, does covenant with the said party of the second part, his heirs and assigns, that he is well seized in fee of the lands and premises aforesaid, and has good right to sell and convey the same in manner and form aforeaid; that the same are free from all incumbrances, and the above bar-

gained and granted lands and premises in the quiet and peaceable possession of the said party of the second part, his heirs and assigns, against all persons lawfully claiming or to claim the whole or any part thereof, the said party of the first part will warrant and defend.

In testimony whereof, the said party of the first part hereunto set his hand and seal the day and year first above written.

JAMES H. RUTTLE.. (Seal.)

Signed, sealed and delivered in presence of
THOMAS H. PRESSNELL, 799
J. R. CAREY,
Witnesses.

STATE OF MINNESOTA,)
County of St. Louis.)

I, J. R. Carey, clerk of the District Court within and for said county, do hereby certify that on this third day of January, A. D. 1880, personally came before me James H. Ruttle, to me well known as the same person described in and who executed the foregoing deed, and he acknowledged that he executed the same freely and voluntarily.

J. R. CAREY,
Clerk of the District Court. 800

(Official Seal.)

STATE OF MINNESOTA,)
County of St. Louis.)

I, Peter J. Borgstrom, register of deeds of said county, do hereby certify that the within is a true and correct copy of the record in my office, as found in Book L of Deeds, on page 410. That I have compared such copy with the original record, and that it is a correct transcript therefrom.

Dated this 10th day of June, A. D. 1895.

P. J. BORGSTROM,
Register of Deeds. 801
By B. O. LOE, Deputy.

(Official Seal.)

COMPLAINANT'S EXHIBIT "M."

Offered in evidence on page 184.

WARRANTY DEED.

Charles A. Moore and wife to Little and Graff.

Filed for record April 22nd, A. D. 1880, at 12 o'clock m., and recorded in Book "L" of Deeds, page 499.

This indenture, made this 13th day of January, in the year of our Lord one thousand eight hundred and eighty (1880), between Charles A. Moore and May G. Moore (his wife), of Saint Paul, Minnesota, parties of the first part, and Daniel E. Little and Philip M. Graff, parties of the second part.

Witnesseth, that the said parties of the first part, in consideration of the sum of twelve hundred and thirty-two ($1,232) dollars to them in hand paid by the said parties of
802 the second part, the receipt whereof is hereby acknowledged, do hereby grant, bargain, sell and convey unto the said parties of the second part, their heirs and assigns, forever, all those tracts or parcels of land lying and being in the County of St. Louis and State of innesota, described as follows, to-wit: Lots one (1) and two (2) and the South East quarter of the North West quarter and the North East quarter of the South West quarter of Section ten (10) in Township fifty-seven (57) North of Range seventeen West. Also the South West quarter of the North East quarter, and the West half of the South East quarter, and the South East quarter of the South East quarter, all in Section twenty-two (22), Township fifty-eight (58) North of Range seventeen (17)
803 west.

To have and to hold the same, together with all the hereditaments and appurtenances thereunto belonging or in anywise appertaining, to the said parties of the second part, their heirs and assigns, forever. And the said Charles A. Moore, one of said parties of the first part, for himself, his heirs, executors and administrators, doth covenant with the said parties of the second part, their heirs and assigns, that he is well seized in fee of the lands and premises aforesaid, and has good right to sell and convey the same in manner and form aforesaid; that the same are free from all incumbrances, and the above bargained and granted lands and
804 premises, in the quiet and peaceable possession of the said parties of the second part, their heirs and assigns, against all persons lawfully claiming or to claim the whole or any part thereof, the said parties of the first part will warrant and defend.

In testimony whereof, the said parties of the first part

hereunto set their hands and seals the day and year first above written.

CHAS. A. MOORE. (Seal.)
MAY G. MOORE. (Seal).

Signed, sealed and delivered in presence of
EDMUND R. HOLLINSHEAD,
EVE LAMPREY,
Witnesses.

STATE OF MINNESOTA,)
County of Ramsey.) 805

I, a notary public within and for said county, do hereby certify that on this 13th day of January, A. D. 1880, personally came before me, Charles A. Moore and May G. Moore, his wife, to me well known as the same persons described in and who executed the foregoing deed, and duly acknowledged that they executed the same freely and voluntarily.

EDMUND R. HOLLINSHEAD,
Notary Public,
Ramsey County, Minnesota.

STATE OF MINNESOTA,)
County of St. Louis.) 806

I, Peter J. Borgstrom, register of deeds of said county, do hereby certify that the within is a true and correct copy of the records in my office, as found in Book L of Deeds, on page 499. That I have compared such copy with the original record, and that it is a correct transcript therefrom.

Dated this 10th day of June, A. D. 1895.

P. J. BORGSTROM,
Register of Deeds.
By B. O. LOE, Deputy.

(Official Seal.)

COMPLAINANT'S EXHIBIT "N." 807

Offered in evidence on page 184.

WARRANTY DEED.

Little and Graff to A. R. Macfarlane.

Book O of Deeds, page 287.

This indenture, made this nineteenth day of January, in the year of our Lord one thousand eight hundred and eighty, between Daniel E. Little and Abigail E. Little, his wife, and

Philip M. Graff and Sarah A. Graff, his wife, all of Grand Rapids, County of Kent, and State of Michigan, parties of the first part, and Angus R. Macfarlane, of the Village of Duluth, County of St. Louis, and State of Minnesota, party of the second part.

Witnesseth, that the said parties of the first part, in consideration of the sum of twelve hundred and thirty-two dollars to them in hand paid by the said party of the second part, the receipt whereof is hereby acknowledged, do hereby grant, bargain, sell and convey unto the said party of the
808 second part, his heirs and assigns, forever, all those tracts or parcels of land lying and being in the County of Saint Louis and State of Minnesota, described as follows, to-wit:

Lots one (1) and two (2) and the South East quarter of the North West quarter and the North Eeast quarter of the South West quarter of Section ten (10) in Township fifty-seven (57) North of Range seventeen (17) West. Also the South West quarter of the North East quarter and the West half of the South East quarter, all in Section twenty-two (22), Township fifty-eight (58) North of Range seventeen (17) West.

To have and to hold the same, together with all the here-
809 itaments and appurtenances thereunto belonging or in anywise appertaining, to the said party of the second part, his heirs and assigns, forever. And the said Daniel E. Little and Philip M. Graff, parties of the first part, for themselves, their heirs, executors and administrators, do covenant with the said party of the second part, his heirs and assigns, that they are well seized in fee of the lands and premises aforesaid, and have good right to sell and convey the same in manner and form aforesaid; that the same are free from all incumbrances, and the above bargained and granted lands and premises, in the quiet and peaceable possession of the said party of the second part, his heirs and assigns, against
810 all persons lawfully claiming or to claim the whole or any part thereof, the said parties of the first part will warrant and defend.

In testimony whereof, the said parties of the first part hereunto set their hands and seals the day and year first above written.

DANIEL E. LITTLE. (Seal.)
ABIGAL E. LITTLE. (Seal.)
PHILIP M. GRAFF. (Seal.)
SARAH A. GRAFF. (Seal.)

Signed, sealed and delivered in presence of
ALBT. N. SEIP,
GEO. RUPLEY,

Witnesses as to the signature of Daniel E. E. Little.

J. A. SMITH,
H. H. DENNIS,

Witnesses as to the signature of Philip M. Graff and Sarah A. Graff and Abigal E. Little.

811

STATE OF MINNESOTA,)
County of St. Louis.)

I, Albt. N. Seip, a notary public within and for said county, do hereby certify that on this nineteenth day of January, A. D. 1880, personally came before me Daniel E. Little, to me well known as one of the same persons described in and who executed the foregoing deed, and acknowledged that he executed the same freely and voluntarily. The words "and the North East quarter of the South West quarter" in line fifteen being first interlined before signing and acknowledging the said deed. 812

ALBERT N. SEIP,
Notary Public,
St. Louis Co., Minn.

(Notarial Seal.)

STATE OF MICHIGAN,)
County of Kent.)

I, Henry H. Dennis, a notary public within and for said county, do hereby certify that on this twenty-second day of January, A. D. 1880, personally came before me Philip M. Graff, Sarah A. Graff and Abigal E. Little, to me well known as the same persons described in and who executed the foregoing deed and each acknowledged that they executed the same freely and voluntarily, the words "and the North East quarter of the South West quarter" in line fifteen being first interlined before signing and acknowledging the said deed. 813

HENRY DENNIS,
Notary Public,
Kent County, Michigan.

(Notarial Seal.)

STATE OF MINNESOTA,)
County of St. Louis.)

I, Peter J. Borgstrom, register of deeds of said county, do hereby certify that the within is a true and correct copy of the records in my office, as found in Book O of Deeds, on page 287. That I have compared such copy with the original record, and that it is a correct transcript therefrom.

Dated this 10th day of June, A. D. 1895.

P. J. BORGSTROM,
Register of Deeds.
814 By B. O. LOE, Deputy.

(Official Seal.)

COMPLAINANT'S EXHIBIT "O."

Offered in evidence on page 185.

WARRANTY DEED.

Angus R. Macfarlane to Edmund D. Graff.

815 Filed for record February 10th, 1880, at 9 o'clock a. m., and recorded in Book "L" of Deeds, page 439.

This indenture, made this twenty-eighth day of January, in the year of our Lord one thousand eight hundred and eighty, between Angus R. Macfarlane (unmarried), of the Village of Duluth, County of St. Louis, and State of Minnesota, party of the first part, and Edmund D. Graff, of the County of Armstrong and State of Pennsylvania, party of the second part.

Witnesseth, that the said party of the first part, in consideration of the sum of twelve hundred and thirty-two dollars to him in hand paid by the said party of the second part, the receipt whereof is hereby acknowledged, doth hereby
816 grant, bargain, sell and convey unto the said party of the second part, his heirs and assigns, forever, all those tracts or parcels of land lying and being in the County of St. Louis and State of Minnesota, described as follows, to-wit:

Lots one (1) and two (2) and the South East quarter of the North West quarter, and the North East quarter of the South West quarter of Section ten (10) in Township fifty-seven (57) North of Range seventeen (17) West. Also the South West quarter of the North East quarter, and West half of the South East quarter, and the South East quarter

of the South East quarter, all in Section twenty-two (22), Township fifty-eight (58) North of Range seventeen (17) West.

To have and to hold the same, together with all the hereditaments and appurtenances thereunto belonging or in anywise appertaining, to the said party of the second part, his heirs and assigns, forever. And the said Angus Macfarlane, party of the first part, for himself, his heirs, executors and administrators, doth covenant with the said party of the second part, his heirs and assigns, that he is well seized in fee of the lands and premises aforesaid, and hath good right 817
to sell and convey the same in manner and form aforesaid; that the same are free from all incumbrances, and the above bargained and granted lands and premises. in the quiet and peaceable possession of the said party of the second part, his heirs and assigns, against all persons lawfully claiming or to claim the whole or any part thereof, the said party of the first part will warrant and defend.

In testimony whereof, the said party of the first part hereunto set his hand and seal the day and year first above written.

A. R. MACFARLANE, (Seal.)

Signed, sealed and delivered in presence of 818
ALBT. N. SEIP,
JAS. HUNTER,
Witnesses.

STATE OF MINNESOTA,)
County of St. Louis.)

I, Albt. N. Seip, a notary public within and for said county, do hereby certify that on this twenty-ninth day of January, A. D. 1880, personally came before me Angus R. Macfarlane, to me well known as the same person described in and who executed the foregoing deed, and acknowledged that he executed the same freely and voluntarily.

ALBT. N. SEIP, 819
Notary Public,
St. Louis County, Minn.

(Notarial Seal.)

STATE OF MINNESOTA,)
County of St. Louis.)

I, Peter J. Borgstrom, register of deeds of said county, do hereby certify that the within is a true and correct copy of the records in my office, as found in Book L of Deeds, on

page 439. That I have compared such copy with the original record, and that it is a correct transcript therefrom.

Dated this 10th day of June, A. D. 189.

P. J. BORGSTROM,
Register of Deeds.
By B. O. LOE, Deputy.

(Official Seal.)

COMPLAINANT'S EXHIBIT "P."

820 Offered in evidence on page 185.

Book B of Patents, page 578.

United States of America, to Eric Larson.

PATENT.

Filed for record April 10, 1883, at 2 o'clock p. m.

The United States of America, to all to whom these presents shall come, greeting:

Homestead Certificate No. 1003.)
Application 1537.)

Whereas, there has been deposited in the General Land Office at Duluth, Minnesota, whereby it appears that, pursu-
821 ant to the Act of Congress approved 20th May, 1862, "to secure homesteads to actual settlers on the public domain," and the acts supplemental thereto, the claim of Eric Larson has been established and duly consummated in conformity to law, for the lote numbered two, three and four of Section one in Township fifty-seven North of Range seventeen West of the Fourth Principal Meridian, in Minnesota, containing one hundred and twenty acres ad ninety-four hundredths of an acre according to the official plat of the survey of the said land, returned to the General Land Office by the surveyor general.

Now know ye, that there is therefore granted by the United States unto the said Eric Larson the tract of land
822 above described:

To have and to hold the said tract of land, with the appurtenances thereof, unto the said Eric Larson, and to his heirs and assigns, for ever.

In testimony whereof, I, Chester A. Arthur, president of the United States of America, have caused these letters to be made patent, and the seal of the General Land Office to be hereunto affixed.

Given under my hand, at the City of Washington, the twentieth day of February, in the year of our Lord one

thousand eight hundred and eighty-two, and of the inde pendence of the United States the one hundred and sixh.

By the President:

CHESTER A. ARTHUR.

By W. H. COOK, Secretary.

S. W. CLARK,

Recorder of the General Land Office.

(Seal.)

Recorded, Vol. 2, page 498.

823

STATE OF MINNESOTA,)
County of St. Louis.)

I, R. S. Munger, register of deeds of said county, do hereby certify that the within is a true and correct copy of the records in my office as found in Book B of Patents, on page 578. That I have compared such copy with the original record, and that it is a correct transcript therefrom.

Dated this 7th day of January, A. D. 1899.

R. S. MUNGER,

Register of Deeds.

By S. L. PIERCE, Deputy.

(Official Seal.)

824

COMPLAINANT'S EXHIBIT "Q."

Offered in evidence on page 185.

The United States of America, to all to whom these presents shall come, greeting:

Certificate No. 3397.

Whereas James B. Price, of St. Louis County, Minnesota, has deposited in the General Land Office of the United States a certificate of the register of the Land Office at Duluth, Minnesota, whereby it appears that full payment has been made by the said James B. Price, to the pro visions of the Act of Congress of the 24th day of April, 1820, 825
entitled "An act making further provision for the sale of the public lands," and the acts supplemental thereto, for the North West quarter of the South West Quarter and the lot numbered three of Section eleven and the lots numbered three and four of Section ten in Township fifty-seven North of Range seventeen West of the Fourth Principal Meridian, in Minnesota, containing one hundred and thirty-nine acres ad twenty-six hundredths of an acre according to the official plat of the survey of the said lads, returned to the General

Land Office by the surveyor general, which said tract has been purchased by the said James B. Price.

Now know ye, that the United States of America, in consideration of the premises, and in conformity with the several acts of congress in such case made and provided, have given and granted, and by these presents do give and grant unto the said James B. Price, and to his heirs, the said tract above described: To have and to hold the same, together with all the rights, privileges, immunities and appurtenances, of whatsoever nature, thereunto belonging, unto the
826 said James B. Price, and to his heirs and assigns, forever.

In testimony whereof, I, Grover Cleveland, president of the United States of America, have caused these letters to be made patent, and the seal of the General Land Office to be hereunto affixed.

Given under my hand, at the City of Washington, the third day of October, in the year of our Lord one thousand eight hundred and eighty-eight, and of the independence of the United States the one hundred and thirteenth.

By the President:

GROVER CLEVELAND.

By M. McKean, Secretary

827 ROBT. W. ROSS,

Recorder of the General Land Office.

(Official Seal.)

OFFICE OF THE REGISTER OF DEEDS,)
State of Minnesota,)
County of St. Louis.)

I hereby certify that the within instrument was filed in this office for record Dec. 2, 1897, at 1:30 p. m., and was duly recorded in Book G of Patents, page 306.

A. LOFGREN,
Register of Deeds.
By S. L. PIERCE, Deputy

828

COMPLAINANT'S EXHIBIT "R."

Offered in evidence on page 185.

WARRANTY DEED.

John McDougall to James B. Price and Wife.
Filed for record January 3, 1884, at 2 o'clock p. m.
Recorded in Book "X" of Deeds, page 215.
This indenture, made this 14th day of June, in the year of

our Lord one thousand eight hundred and eighty-two, between James B. Price and Nellie May Price, his wife, of St. Louis County, and State of Minnesota, parties of the first part, and John McDougall, of St. Louis County and State of Minnesota, party of the second part.

Witnesseth, that the said parties of the first part, in consideration of the sum of four hundred ($400) dollars to them in hand paid by the said party of the second part, the receipt whereof is hereby acknowledged, do hereby grant, bargain, sell and convey unto the said party of the second part his heirs and assigns, forever, all those tracts or parcels of 829
land lying and being in the County of St. Louis and State of Minnesota, described as follows: to-wit:

The North West quarter of the South West quarter (N W ¼ of S W ¼) and Lot three (3) of Section eleven (11) and Lots three (3) and four (4) of Section ten (10) in Township fifty-seven (57) North of Range seventeen (17) West of the Fourth Principal Meridian, containing 139 26-100 acres, more or less, according to the goverment survey thereof.

To have and to hold the same, together with all the hereditaments and appurtenances thereunto belonging or in anywise appertaining; to the said party of the second part, his heirs and assigns, forever. And the said James B. Price and 830
Nellie May Price, parties of the first part, for themselves and their heirs, executors and administrators, do hereby covenant with the said party of the second part, his heirs and assigns, that they are well seized in fee of the lands and premises aforesaid, and have good right to sell and convey the same in manner and form aforesaid; that the same are free from all incumbrances, and the above bargained and granted lands and premises in the quiet and peaceable possession of the said party of the second part, the said parties of the first part will warrant and defend.

In testimony whereof, the said parties of the first part hereunto set their hands and seals the day and year first above written. 831

JAMES B. PRICE. (Seal.)
NELLIE MAY PRICE. (Seal.)

Signed, sealed and delivered:
H. A. CHRISTY,
Witness.

STATE OF MINNESOTA,)
County of St. Louis.)

I, C. E. Bostwick, a notary public within and for said

county, do hereby certify that on this 16th day of August, A. D. 1882, personally came before me James B. Price and Nellie May Price, his wife, to me well known as the person described in and who executed the foregoing deed, and they acknowledged that they executed the same freely and voluntarily.

C. E. BOSTWICK.

(Notarial Seal, St. Louis Co., Minn.)

STATE OF MINNESOTA,)
832 County of St. Louis.)

I, Peter J. Borgstrom, register of deeds of said county, do hereby certify that the within is a true and correct copy of the records in my office, as found in Book W of Deeds, on page 441. That I have compared such copy with the original record, and that it is a correct transcript therefrom.

Dated this 10th day of June, A. D. 1895.

P. J. BORGSTROM,
Register of Deeds.
By B. O. LOE, Deputy.

(Official Seal.)

---

833 COMPLAINANT'S EXHIBIT "S."

Offered in evidence on page 185.

WARRANTY DEED.

John McDougall to C. N. Nelson Lumber Co.
Filed for record January 3, 1884, at 2 o'clock p. m.
Recorded in Box "X" of Deeds, page 215.

This indenture, made this 14th day of June, in the year of our Lord one thousand eight hundred and eighty-three, between John McDougall (a single man), of St. Louis County and State of Minnesota, party of the first part, and C. N.
834 Nelson Lumber Company, a corporation existing under the laws of the State of Minnesota, party of the second part.

Witnesseth, that the said party of the first part, in consideration of the sum of four thousand dollars to him in hand paid by the said party of the second part, the receipt whereof is hereby acknowledged, doth hereby grant, bargain, sell and convey unto the said party of the second part, its successors and assigns, forever, all those tracts or parcels of land lying and being in the County of St. Louis and State of Minnesota, described as follows, to-wit:

The West half of the South East quarter (W ½ of S E ¼)

and the South half of the South West quarter (S ½ of S W ¼) of Section Fourteen (14), the North East quarter (N E ¼) of ection Twenty (20), and the South half of the North West quarter (S ½ of N W ¼), the outh West quarter of the North East quarter (S W ¼ of N E ¼) and the North West quarter of the South East quarter (N W ¼ of S E ¼) of Section Thirteen (13), all in Township Fifty-eight (58) North of Range Seventeen (17) West of 4th Principal Meridian. Also the North West quarter of the South West quarter (N W ¼ of S W ¼) and Lot Three (3) of Section Eleven (11) and Lots Three (3) and Four (4) of Section Ten, all of Township Fifty- 835
seven (57) North of Range Seventeen (17) West of the 4th Principal Meridian, containing 619 26-100 acres, more or less, according to the government survey thereof.

To have and to hold the same, together with all the hereditaments and appurtenances thereunto belonging or in anywise appertaining, to the said party of the second part, its successors, heirs and assigns, forever. And the said John McDougall, party of the first part, for himself and his heirs, executors and administrators, doth hereby covenant with the said party of the second part, its successors and assigns, that he is well seized in fee of the lands and premises aforesaid, and has good right to sell and convey the same in man- 836
ner and form aforesaid; that the same are free from all incumbrances, and the above bargained and granted lands and premises, in the quiet and peaceable possession of the party of the second part, its successors, heirs and assigns, against all persons lawfully claiming or to claim the whole or any part thereof, the said party of the first part will warrant and defend.

In testimony whereof, the said party of the first part hereunto set his hand and seal the day and year first above written.

JOHN McDOUGALL. (Seal.)

Signed, sealed and delivered in presence of 837
ANDREW GOWAN,
CHARLES BEAULIEU,
Witnesses.

STATE OF MINNESOTA,)
County of Carlton.)

I, John J. Quinn, a notary public within and for said county, do hereby certify that on this 14th day of June, A. D. 1883, personally came before me John McDougall, to me

well known as the person described in and who executed the foregoing deed, and he acknowledged that he executed the same freely and voluntarily.

JOHN J. QUINN,
Notary Public, Carlton Co., Minn.

(Notarial Seal, Carlton Co., Minn.)

STATE OF MINNESOTA,)
County of St. Louis.)

838 I, Peter J. Borgstrom, register of deeds of said county, do hereby certify that the within is a true and correct copy of the records in my office, as found in Book X of Deeds, on page 215. That I have compared such copy with the original record, and that it is a correct transcript therefrom.

Dated this 10th day of June, A. D. 1895.

P. J. BORGSTROM,
Register of Deeds.
By B. O. LOE, Deputy.

(Official Seal.)

---

839 COMPLAINANT'S EXHIBIT "T."

Offered in evidence on page 185.

WARRANTY DEED.

C. N. Nelson Lumber Co. to S. J. Murphy.

Filed fo rrecord March 6, 1884, at 10 a. m.
Book Y, page 149.

This indenture, made this twenty-ninth day of December, in the year of our Lord one thousand eight hundred and eighty-three, between the C. N. Nelson Lumber Company, a corporation created and existing under the laws of the State of Minnesota, party of the first part, and Simon J. Murphy,
840 of the City of Detroit and State of Michigan, party of the second part.

Witnesseth, that the said party of the first part, in consideration of the sum of nine thousand dollars to them in hand paid by the said party of the second part, the receipt whereof is hereby acknowledged, do hereby grant, bargain, sell and convey unto the said party of the second part, his heirs and assigns, forever, all those tracts or parcels of land lying and being in the County of Saint Louis and State of Minnesota, described as follows, to-wit: The North West

quarter of the South West quarter (N W ¼ of S W ¼) and Lot Three (3) of Section Eleven (11) and Lots Three (3) and Four (4) of Section Ten (10), all in Township Fifty-seven (57) North of Range Seventeen (17) West of the 4th Principal Meridian. Also the South half of the North West quarter (S ½ of N E ¼), the South West quarter of the North East quarter (S W ¼ of N E ¼), the North West quarter of the South East quarter (N W ¼ of S E ¼) and South half of South West quarter (S ½ of S W ¼) of ection Thirteen (13), the West half of the South East quarter (W ½ of S E ¼) and South half of South West quarter (S ½ of S W ¼) of Section 841
Fourteen (14), and the East half of the North West quarter (E ½ of N W ¼) of Section Twenty-four (24) and the East half of the South West quarter (E ½ of S W ¼), the South West quarter of the South West quarter (S W ¼ of S W ¼) and Lot Two (2) of Section Thirty-four (34), all in Township Fifty-eight (58) North of Range Seventeen (17) West of the 4th Principal Meridian, containing 771 1-100 acres, more or less, according to the government survey thereof.

To have and to hold the same, together with all the hereditaments and appurtenances thereunto belonging or in anywise appertaining, to the said party of the second part, his heirs and assigns, forever. 842

And the said C. N. Nelson Lumber Company, party of the first part, for itself, its successors, do covenant with said party of the second part, his heirs and assigns, that they are well seized in fee of the lands and premises aforesaid, and have good right to sell and convey the same in manner and form aforesaid; that the same are free from all incumbrances, and the above bargained and granted lands and premises, in the quiet and peaceable possession of the said party of the second part, his heirs and assigns, against all persons lawfully claiming or to claim the whole or any part thereof, the said party of the first part will warrant and defend.

In testimony whereof, the said C. N. Nelson Lumber Company has caused these presents to be subscribed by the president and secretary thereof, and the corporate seal 843

thereof to be hereunto duly affixed, the day and year first above written.

C. N. NELSON LUMBER CO.,
CHAS. N. NELSON, President.
P. M. RAMSEY, Secretary.

(Corporate Seal.)
Signed, sealed and delivered in the presence of
CHARLES G. LAWRENCE,
LOUIS E. WHITE,
Witnesses.

844

STATE OF MINNESOTA,)
County of St. Louis.)

On this 19th day of January, A. D. 1884, before me appeared Charles N. Nelson and Philip M. Ramsey, to me personally known, who, being by me duly sworn, did say that they were respectively the president and secretary of the C. N. Nelson Lumber Company, and that the seal affixed to this instrument is the corporate seal of said corporation, and that said instrument was signed and sealed in behalf
845 of said corporation by authority of its board of directors, and said Charles N. Nelson and Philip M. Ramsey acknowledged said instrument to be the free act and deed of said corporation.

CHARLES G. LAWRENCE,
Notary Public.

(Notarial Seal, Ramsey Co., Minn.)

STATE OF MINNESOTA,)
County of St. Louis.)

I, Peter J. Borgstrom, register of deeds of said county
846 do hereby certify that the within is a true and correct copy of the records in my office, as found in Book Y of Deeds on page 149. That I have compared such copy with the original record, and that it is a carrect transcript therefrom.

Dated this 10th day of June, A. D. 1895.

P. J. BORGSTROM,
Register of Deeds.
By B. O. LOE, Deputy.

(Official Seal.)

COMPLAINANT'S EXHIBIT "U."

Offered in evidence on page 185.
Book T of Deeds, page 565.

WARRANTY DEED.

D. E. Little, et al., to S. J. Murphy.

Filed for record April 25th, 1883, at 2 o'clock p. m.

This indenture, made this eleventh day of April, in the year of our Lord one thousand eight hundred and eighty-three, between Daniel E. Little and Abigal E. Little, his 847
wife, Philip M. Graff and Sarah A. Graff, his wife, all of Duluth, Minnesota, and Edmund D. Graff, of Armstrong County, Pennsylvania, parties of the first part, and Simon J. Murphy, of Detroit, Michigan, party of the second part.

Witnesseth, that the said parties of the first part, in consideration of the sum of sixty-five thousand (65,000 dollars to them in hand paid by the said party of the second part, the receipt whereof is hereby acknowledged, do hereby grant, bargain, sell and convey unto the said party of the second part, his heirs and assigns, forever, all those tracts or parcels of land lying and being in the County of St. Louis and State of Minnesota, described as follows, to-wit: The 848
North half of the South West quarter (N 1-2 of S W 1-4) of Section Thirteen (13), the East half of the South East quarter (E 1-2 of S E 1-4) of Section Fourteen (14), the North East quarter of the North East quarter (N E 1-4 of N E 1-4) and the South half of the South East quarter (S 1-2 of S E 1-4) and the South West quarter of the North East quarter and the North West quarter of the South East quarter (S W 1-4 of N E 1-4 and N W 1-4 of S E 1-4), the North West quarter of the North East quarter (N W 1-4 of N E 1-4) and the South East quarter of the North East quarter and the North East quarter of the South East quarter (S E 1-4 of N E 1-4 and N E 1-4 of S E 1-4) of Section Twenty-two (22), the North 849
half of the South East quarter and South West quarter of the South East quarter (N 1-2 of S E 1-4 and S W 1-4 of S E 1-4) and the North West quarter of the North East quarter and North half of the North West quarter (N W 1-4 of N E 1-4 and N 1-2 of N W 1-4) and the East half of the North East quarter (E 1-2 of N E 1-4) and the South half of the North West quarter (S 1-2 of N W 1-4) and the North half of the South West quarter (N 1-2 of S W 1-4) and the South West quarter of the North East quarter (S W 1-4 of N E 1-4) and the South East quarter of the South West quarter

(S E 1-4 of S W 1-4) of Section Twenty-three (23), the West half of the North West quarter (W 1-2 of N W 1-4) of Section Twenty-four (24), the South East quarter of the South East quarter (S E 1-4 of S E 1-4) of Section Twenty-seven (27) and the East half of the North East quarter (E 1-2 of N E 1-4) of Section Thirty-one (31) and the West half of the North West quarter (W 1-2 of N W 1-4) of Section Thirty-two (32) and Lot One (1) of Section Thirty-four (34), the North West quarter (N W 1-4) and Lot Two (2) of Section Thirty-five (35), all in Township Number Fifty-eight (58) North of Range Seven-
850 teen (17) West of the Fourth Principal Meridian, and Lots Two, Three and Four (2, 3 and 4) of Section One (1) and Lots Two and One (2 and 1) of Section Three (3) and Lots One and Eight (1 and 8) of Section Four (4) and the North East quarter of the South West quarter and the South East quarter of the South West quarter (N E 1-4 of S W 1-4 and S E 1-4 of S W 1-4) of Section Six (6) and Lot Four (4) of Section Nine (9) and Lots One and Two and the North East quarter of the South West quarter and the South East quarter of the North West quarter (1 and 2 and N E 1-4 of S W 1-4 and S E 1-4 of N W1-4)ofSection Ten (10), all in Township Number Fifty-seven (57) North of Range Seventeen (17) West of
851 the Fourth Principal Meridian. And the North half of the South West quarter (N 1-2 of S W 1-4) of Section Twenty-seven (27) and the North West quarter of the South West quarter and the South East quarter of the South West quarter (N W 1-4 of S W 1-4 and S E 1-4 of S W 1-4) of Section Twenty-nine (29) and theEast half of the South East quarter (E 1-2 of S E 1-4) of Section Thirty (30) and the North half of the North West quarter (N 1-2 of N W 1-4) of Section Thirty-two (32), all in the Township Number Fifty-four (54) North of Range Fourteen (14) West of the Fourth Principal Meridian. And the North West quarter of Section Seventeen (17) and the East half of the North East quarter and Lots Three and Four (E 1-2 of N E 1-4 and Lots 3 and 4) of
852 Section Nineteen (19) and the West half of the North West quarter (W 1-2 of N W 1-4) of Section Twenty (20) and the North East quarter of the North East quarter and the South West quarter of the North East quarter (N E 1-4 of N E 1-4 and S W 1-4 of N E 1-4)of Section Twenty-nine (29), all in Township Number Fifty-three (53) North of Range Fourteen (14) West of the Fourth Principal Meridian. And the East half of the North West quarter (E 1-2 of N W 1-4) and the South West quarter of the North East quarter (S W 1-4 of N E 1-4) of Section Twenty-three (23) and the South East

quarter of the South West quarter (S E 1-4 of S W 1-4) of Section Fourteen (14) and the North West quarter of the North West quarter (N W 1-4 of N E 1-4) of Section Twenty-six (26) and the West half of the South East quarter (W 1-2 of S E 1-4) of Section Thirty-three (33), all in Township Number Fifty-three (53) North of Range Fifteen (15) West of the Fourth Principal Meridian. And the South East quarter of the South West quarter (S E 1-4 of S W 1-4) of Section Twenty-one (21) in Township Fifty-three (53) North of Range Fourteen (14) West of the Fourth Principal Meridian. To have and to hold the same, together with all the 853
hereditaments and appurtenances thereunto belonging or in anywise appertaining, to the said party of the second part, his heirs and assigns, forever. And the said Daniel E. Little, Philip M. Graff and Edmund D. Graff, parties of the first part, for themselves and their heirs, executors and administrators, do hereby covenant with the said party of the second part, his heirs and assigns, that they are well seized in fee of the lands and premises aforesaid, and have good right to sell and convey the same in manner and form aforesaid; that the same are free from all incumbrances, and the above bargained and granted premises, in the quiet and peaceable possession of the party of the second part, his 854
heirs and assigns, against all persons lawfully claiming or to claim the whole or any part thereof, the said parties of the first part will warrant and defend.

In testimony whereof, the said parties of the first part hereunto set their hands and seals the day and year first above written.

DANIEL E. LITTLE. (Seal.)
ABIGAIL E. LITTLE. (Seal.)
PHIIP M. GRAFF. (Seal.)
SARAH A. GRAFF. (Seal.)
EDMUND D. GRAFF. (Seal.)

Signed, sealed and delivered in the presence of 855
HENRY A SMITH,
DAVID C. BURREY,
Witnesses to the signatures of Daniel E. Little, Abigal E. Little, Philip M. Graff and Sarah A. Graff.
JAMES E. CLAYPOOLE,
W. J. WRIGHT,
Witnesses to E. D. Graff.

STATE OF MINNESOTA,)
County of St. Louis.)

I, Henry A. Smith, a notary public within and for said county, do hereby certify that on this eleventh day of April, A. D. 1883, personally came before me Daniel E. Little, Abigal E. Little, his wife, Philip M. Graff and Sarah A. Graff, his wife, to me known to be the signers and sealers of the foregoing instrument, and acknowledged that they executed the same freely and voluntarily.

HENRY A. SMITH,
856 Notary Public, St. Louis Co., Minn.

(Notarial Seal, St. Louis Co., Minn.)

COMMONWEALTH OF PENNSYLVANIA,)
County of Armstrong.)

I, W. J. Wright, a notary public within and for said county, do hereby certify that on this 17th day of April, 1883, personally came before me Edmund D. Graff, to me known to be an unmarried person and one of the signers and sealers of the foregoing instrument, and he acknowledged that he executed the same freely and voluntarily.

857 W. J. WRIGHT,
Notary Public.

(Notarial Seal, Armstrong Co., Penna.)

STATE OF PENNSYLVANIA,)
County of Armstrong.)

I, H. J. Haynes, clerk of the Orphans Court of said county, the same being a court of record, having a seal, do hereby certify that W. J. Wright, Esq., before whom the foregoing affidavit was made, was at the date thereof, to-wit, the 17th day of April, A. D. 1883, a notary public within and for said
858 county, and duly authorized to take the same. That I am well acquainted with his handwriting, and verily believe his signature thereto is genuine, and that the same is acknowledged in accordance with the laws of the State of Pennsylvania. In testimony whereof, I have hereunto set my hand and affixed the seal of said court at my office in the court house of said county, this 17th day of April, 1883.

H. J. HAYES,
Clerk.

(Orphan's Court Seal,
Armstrong Co., Penna.)

STATE OF MINNESOTA,)
County of St. Louis.)

I, Peter J. Borgstrom, register of deeds of said county, do hereby certify that the within is a true and correct copy of the records in my office, as found in Book T of Deeds, on page 565. That I have compared the original record, and that it is a correct transcript therefrom.

Dated this 10th day of June, A. D. 1895.

P. J. BORGSTROM,
Register of Deeds.
By B. O. LOE, Deputy. 859

(Official Seal.)

COMPLAINANT'S EXHIBIT "V."

Offered in evidence on page 186.
Book "C" of Patents, page 350.

UNITED STATES TO MORRIS THOMAS.

No. .... Filed for record May 24, 1887, at 9 o'clock a. m.

The United States of America, to all to whom these presents shall come, greeting: 860

Certificate No. 5796.

Whereas Morris Thomas, of St. Louis County, Minnesota, has deposited in the General Land Office of the United States a certificate of the register of the Land Office at Duluth, Minnesota, whereby it appears that full payment has been made by the said Morris Thomas, according to the provisions of the Act of Congress of the 24th of April, 1820, entitled "An act making further provisions for the sale of the public lands," for the Southwest quarter of the Northwest quarter and the Northwest quarter of the Southwest quarter of Section Nine, the Northwest quarter of the Southwest quarter of Section Twenty-five; the Southwest quarter of the Southwest quarter of Section Thirty-four 861 and the lots numbered One, Two and Three of Section Two in Township Fifty-seven North of Range Seventeen West of the Fourth Principal Meridian, in Minnesota, containing two hudred and ten acres and eighty-five hundredths of an acre, according to the official plat of the survey of the lands, returned to the General Land Office by the surveyor general, which said tract has been purchased by the said Morris Thomas.

Now, know ye, that the United States of America, in con-

sideration of the premises, and in conformity of the several acts of Congress in such case made and provided, have given and granted, and by these presents do give and grant, unto the said Morris Thomas, and to his heirs, the said tract above described, to have and to hold the same, together with all the rights, privileges, immunities and appurtenances, of whatsoever nature, thereunto belonging, unto the said Morris Thomas, and to his heirs and assigns, forever.

In testimony whereof, I, Chester A. Arthur, president
862 of the United States of America, have caused these letters to be made patent and the seal of the General Land Office to be hereunto affixed.

Given under my hand, at the City of Washington, the thirtieth day of January, in the year of our Lord one thousand eight hundred and eighty-four, and of the independence of the United States the one hundred and eighth.

By the President:

CHESTER A. ARTHUR,

By O. L. JUDD, Asst. Sec'y.

(Seal.)

S. W. CLARK,

863 Recorder of the General Land Office.

Recorded, Vol. 9, page 344.

STATE OF MINNESOTA,)
County of St. Louis.)

I, R. S. Munger, register of deeds of said county, do hereby certify that the within is a true and correct copy of the records in my office, as found in Book C of Patents, on page 350. That I have compared such copy with the original record, and that it is a correct transcript therefrom.

R. S. MUNGER,

Register of Deeds.

By S. L. PIERCE, Deputy.

864 (Official Seal.)

COMPLAINANT'S EXHIBIT "W."

Offered in evidence on page 186.

WARRANTY DEED.

Morris Thomas and Wife to Simon J. Murphy.

Filed for record March 14, 1884, at 10 o'clock, and recorded in Book "X" of Deeds, page 307.

This indenture, made this sixteenth day of February, A. D. 1884, between Morris Thomas and Angie C. Thomas, his wife, both of St. Louis County, Minnesota, parties of the first part, and Simon J. Murphy, of Detroit, Michigan, party of the second part.

Witnesseth, That the said parties of the first part, in consideration of the sum of five hundred (500) dollars to them in hand paid by the said party of the second part, the receipt whereof is hereby acknowledged, do hereby grant, bargain, sell and convey unto the said party of the second part, his heirs and assigns, forever, all the following described tract 865
or parcel of land, lying and being in the County of St. Louis and State of Minnesota, described as follows, to-wit:

The Southwest quarter of the Northwest quarter (S W 1-4 of N W 1-4) and the Northwest quarter of the Southwest quarter (N W 1-4 of S W 1-4) of Section Number Nine (9) and Lots One, Two and Three (1, 2 and 3) of Section Number Two (2), all in Township Fifty-seven (57) North of Range Seventeen (17) est of 4th P. M., containing one hundred and thirty and 85-100 acres, more or less, according to the government survey thereof.

To have and to hold the same, together with all the hereditaments and appurtenances thereunto blonging or in any 866
wise appertaining, to the said party of the second part, his heirs and assigns, forever. And the said Morris Thomas and Angie C. Thomas, his wife, parties of the first part, for their heirs, executors and administrators, do hereby covenant with the said party of the second part, his heirs and assigns, that they are well seized in fee of the lands and premises aforesaid, and have good right to sell and convey the same in manner and form aforesaid; that the same are free from all incumbrances, and the above bargained and granted lands and premises, in the quiet and peaceable possession of the party of thesecond part, his heirs and assigns, against all persons lawfully claiming, or to claim, the whole
or any part thereof, the said parties of the first part will 867
warrant and defend.

In testimony whereof, the said parties of the first part

have hereunto set their hands and seals the day and year first above written.

MORRIS THOMAS. (Seal.)
ANGIE C. THOMAS. (Seal.)

Signed, sealed and delivered in presence of
HENRY TISCH,
GEO. GRIMMER,
Witnesses.

---

868 STATE OF WISCONSIN,)
County of Kewaunee.)

I, Henry Tisch, a notary public within and for said county, do hereby certify that on this sixteenth day of February A. D. 1884, personally came before me, Morris Thomas and Angie C. Thomas, his wife, to me well known as the persons described in and who executed the foregoing deed, and acknowledged that they executed the same frely and voluntarily.

HENRY TISCH,
Notary Public.

---

869 STATE OF MINNESOTA,)
County of St. Louis.)

I, Peter J. Borgstrom, register of deeds of said county, do hereby certify that the within is a true and correct copy of th records in my office, as found in Book X of Deeds, on page 307. That I have compared such copy with the original record, and that it is a correct transcript therefrom.

P. J. BORGSTROM,
Register of Deeds.
By B. O. LOE, Deputy.

(Official Seal.)

870

COMPLAINANT'S EXHIBIT "X."

Offered in evidence on page 186.

The United States of America, to all to whom these presents shall come, greeting:

Certificate No. 3089.

Whereas, Robert Pratt, of St. Louis County, Minnesota, has deposited in the General Land Office of the United States a certificate of the register of the Land Office at Duluth, Minnesota, whereby it appears that full payment

the provisions of the Act of Congress of the 24th of April, 1820, entitled "An act making further provision for the sale of the public lands," and the acts supplemental thereto, for the lots numbered One, Two and Three and the North East quarter of the South West quarter of Section Nine in Township Fifty-seven North of Range Seventeen West of the Fourth Principal Meridian, in Minnesota, containing one hudred ad forty-four acres and sixty-five hundredths of an acre, according to the official plat of the survey of the said lands, returned to the General Land Office by the surveyor general, which said tract has been purchased by the said 871
Robert Pratt.

Now know ye, that the United States of America, in consideration of the premises, and in conformity with the several Acts of Congress in such case made and provided, have given and granted, and by these presents do give and grant, unto the said Robert Pratt, and to his heirs, the said tract above described; to have and to hold the same, together with all the rights, privileges, immunities and appurtenances, of whatsoever nature, thereunto belonging, unto the said Robert Pratt, and to his heirs and assigns, forever.

In testimony whereof, I, Grover Cleveland, president of the United States of America, have caused these letters 872
to be made patent and the seal of the General Land Office to be hereunto affixed.

Given under my hand, at the City of Washington, the third day of October, in the year of our Lord one thousand eight hundred and eighty-eight, and of the independence of the United States the one hundred and thirteenth.

By the President:

GROVER CLEVELAND.

By M. McKEAN, Secretary.

(Official Seal.)

ROBT. W. ROSS,

Recorder of the General Land Office. 873

Recorded, Vol. 16, page 196.

OFFICE OF REGISTER OF DEEDS,)
State of Minnesota,)
County of St. Louis.)

I hereby certify that the within instrument was filed in

this office, for record, Dec. 2, 1897, at 1:30 p. m., and was duly recorded in Book G of Patents, on page 306.

A. LOFGREN,
Register of Deeds.
By S. L. PIERCE, Deputy.

COMPLAINANT'S EXHIBIT "Y."

Offered in evidence on page 186.

874 SPECIAL WARRANTY DEED.

Robert Pratt to Scott Griswold.

Book "S" of Deeds, page 355.
Filed for record Dec. 23rd, 1881, at 4 p. m.

This indenture, made this twenty-second day of December, in the year of our Lord one thousand eight hundred and eighty-one, between Robert Pratt, of St. Louis County, State of Minnesota, party of the first part, and Scott Griswold, of Kent County, State of Michigan, party of the second part.

Witnesseth, That the said party of the first part, in consideration of the sum of three hundred (300) dollars to him
875 in hand paid by the said party of the second part, the receipt whereof is hereby acknowledged, has bargained and sold, and by these presents do convey to the said party of the second part, his heirs and assigns, forever, all those parcels situate in the County of St. Louis and State of Minnesota described as follows, to-wit:

Lots One (1), Two (2) and Three (3) and North East quarter (1-4) of South West quarter (1-4) of Section Nine (9), Township Fifty-seven (57) North of Range Seventeen (17) West of 4th Principal Meridian. Containing one hundred forty-four and 65-100 (144 65-100) acres of land, more or less according to the government survey thereof.

Together with the appurtenances thereunto belonging.
876 And the said party of the first part, for his heirs, executors and administrators, do covenant with the said party of the second part, his heirs, executors, administrators and assigns, that he has not done, or omitted to do, any act or thing whatsoever, whereby the above described premises, or any part thereof, now or at any time hereafter shall become imperilled, charged or encumbered in any manner whatsoever, and the title to the said premises against all persons lawfully claiming the same from or under the said party of the first part do hereby warrant and will forever defend.

In witness whereof, the said party of the first part hereunto set his hand and seal the day and year first above written.

ROBERT PRATT. (Seal.)

Signed, sealed and delivered in presence of
F. W. EATON.
HUGH FRAZER.

STATE OF MINNESOTA,)
County of St. Louis.) 877

I, F. W. Eaton, a notary public in and for said county, do hereby certify that on this 22d day of December, A. D. 1881 personally appeared before me Robert Pratt, to me known to be the same person described in and who executed the within conveyance, and he acknowledged the same to be his free act and deed.

F. W. EATON,
Notary Public.

(Seal.)

STATE OF MINNESOTA,)
County of St. Louis.) 878

I, Peter J. Borgstrom, register of deeds of said county, do hereby certify that the within is a true and correct copy of the records in my office, as found in Book S of Deeds, on page 355. That I have compared such copy with the original record, and that it is a correct transcript therefrom.

Dated this 10th day of June, A. D. 1895.

P. J. BORGSTROM,
Register of Deeds.
By B. O. LOE, Deputy.

(Official Seal.)

879

COMPLAINANT'S EXHIBIT "Z."

Offered in evidence on page 186.

WARRANTY DEED.

Scott Griswold and Wife to Simon J. Murphy.
Book Y, page 50.
Filed for record November 9, 1883, at 10 a. m.

This indenture, made this fifth day of October, in the year of our Lord one thousand and eight hundred and eighty-

three, between Scott Griswold and Martha Griswold, his wife, of Griswold, Kent County, Michigan, of the first part, and Simon J. Murphy, of Detroit, Michigan, of the second part.

Witnesseth, that the said parties of the first part, for and in consideration of the sum of five thousand dollars to them in hand paid by the said party of the second part, the receipt whereof is hereby confessed and acknowledged, do by these presents grant, bargain, sell, remise, release, alien and confirm unto the said party of the second part and his heirs
880 and assigns, forever, all those certain pieces or parcels of land situate and being in the County of St. Louis and State of Minnesota, and described as follows, to-wit: The South half of the North East quarter and the North East quarter of the South East quarter of Section Eight (8), the North East quarter of the South West quarter and Lots One (1), Two (2) and Three (3) of Section Nine (9) in Township Fifty-seven (57) North, Range Seventeen West. The East half of the South East quarter of Section Nine (9), Lits One (1), Two (2) and Three (3) of Section Ten (10), the South East quarter of the North West quarter and Lots Three (3), Four (4) and Five (5) of Section Five (5) in Township Fifty-seven
881 (57) North, Range Eighteen (18) West, the North half of the South West quarter and the South half of the North West quarter of Section Seventeen (17), Township Fifty-eight (58) North, Range Fourteen (14) West, containing, according to the government survey, six hundred eighty seven and 17-100 acres of land.

Together with all and singular the hereditaments and appurtenances thereunto belonging or in anywise appertaiing. To have ad to hold the said premises as above described, with the appurtenances, unto the said party of the second part and to his heirs and assigns, forever. And the said Scott Griswold and parties of the first part, for themselves and for their heirs, executors and administrators, do
882 covenant, grant, bargain and agree to and with the said party of the second part, his heirs and assigns, that at the time of the ensealing and delivery of these presents they are well seized of th above granted premises in fee simple, that they are free from all incumbrances whatever, and that thy will and their heirs, executors and administrators shall warrant and defend the same against all lawful claims whatsoever.

In witness whereof, the said parties of the first part have

hereunto set their hands and seals the day and year first above written.

SCOTT GRISWOLD. (Seal.)
MARTHA GRISWOLD. (Seal.)

Signed, sealed and delivered in presence of
ANNA JOHNSON.
FAYETTE HOUGH.

STATE OF MICHIGAN,)
County of Kent.) 883

On this 5th day of October, in the year one thousand eight hundred and eighty-three, before me, a justice of the peace in and for said county, personally appeared Scott Griswold and Martha Griswold, his wife, to me known to be the same persons described in and who executed the within instrument, who severally acknowledged the same to be their free act and deed.

FAYETTE HOUGH,
A Justice of the Peace.

STATE OF MICHIGAN,) 884
County of Kent.)

I, Orlando H. Goodwin, clerk of said county (an ex officio clerk of the Circuit Court thereof, being a court of record having common law jurisdiction), do hereby certify that Fayette Hough, Esq., before whom the above and foregoing instrument appears to have been acknowledged, is and was at the time of the taking of such acknowledgement, and the certifying thereof, a justice of the peace within and for said county, duly commissioned, qualified and sworn and authorized by the law of said state to take such acknowledgement and to certify the same. And I further certify that I am acquainted with the handwriting of said Fayett Hough, 885 and believe his signature appended to the above certificate of acknowledgement to be genuine, and the said instrument is executed and acknowledged according to the laws of this state.

O. H. GOODWIN,
Clerk.
By CHAS. G. GODFREY, Deputy.

(Circuit Court Seal,
Kent Co., Mich.)

STATE OF MINNESOTA,)
County of St. Louis.)

I, Peter J. Borgstrom, register of deeds of said county do hereby certify that the within is a true and correct copy of the records in my office, as found in Book Y of Deeds, on page 50. That I have compared such copy with the original record, and thatit is a correct transcript therefrom.

Dated this 10th day of June, A. D. 1895.

P. J. BORGSTROM,
Register of Deeds.
886 By B. O. LOE, Deputy.

(Official Seal.)

COMPLAINANT'S EXHIBIT "A. A."

Offered in evidence on page 186.
Book G of Patents, page 138.

THE UNITED STATES OF AMERICA TO THOMAS W. FINN.

U. S. PATENT.

887 Filed for record the 3rd day of May, A. D. 1894, at 2:40 o'clock p. m.
No. 3440. Ex.

The United States of America, to all to whom these presents shall come, greeting:

Certificate No. 3257.

Whereas, Thomas W. Finn, of St. Louis County, Minnesota, has deposited in the General Land Office of the United States a certificate of the register of the Land Office at Duluth, Minnesota, whereby it appears that full payment the provisions of the Act of Congress of the 24th of April, 1820, entitled "An act making further provision for the sale of the public lands," and the acts supplemental thereto, for
888 the Lots numbered Four, Five, Six and Seven, of Section Four in Township Fifty-seven North of Range Seventeen West of the Fourth Principal Meridian, in Minnesota, containing one hundred and thirty acres and ninety-four hundredths of an acre, according to the official plat of the survey of the said lands, returned to the General Land Office by the surveyor general, which said tract has been purchased by the said Thomas W. Finn.

Now know ye, that the United States of America, in consideration of the premises, and in conformity with the ser-

eral Acts of Congress in such case made and provided, have given and granted, and by these presents do give and grant, unto the said Thomas Finn, and to his heirs, the said tract above described; to have and to hold the same, together with all the rights, privileges, immunities and appurtenances, of whatsoever nature, thereunto belonging, unto the said Thomas W. Finn and to his heirs and assigns, forever.

In testimony whereof, I, Grover Cleveland, president of the United States of America, have caused these letters to be made patent and the seal of the General Land Office to be hereunto affixed. 889

Given under my hand, at the City of Washington, the third day of October, in the year of our Lord one thousand eight hundred and eighty-eight, and of the independence of the United States the one hundred and thirteenth.

By the President:

GROVER CLEVELAND.

By M. McKEAN, Secretary.

(United States General Land Office.)

(Seal.)

ROBT. W. ROSS,

Recorder of the General Land Office.

Recorded, Vol. 16, page 226. 890

STATE OF MINNESOTA,)
County of St. Louis.)

I, Peter J. Borgstrom, register of deeds of said county, do hereby certify that the within is a true and correct copy of the records in my office, as found in Book G of Patents, on page 138. That I have compared such copy with the original record, and that it is a correct transcript therefrom.

Dated this 10th day of June, A. D. 1895. 891

P. J. BORGSTROM.

Register of Deeds.

By B. O. LOE, Deputy.

(Official Seal.)

COMPLAINANT'S EXHIBIT "A. B."

Offered in evidence on page 186.

Book G of Patents, page 137.

UNITED STATES OF AMERICA TO CHARLES BEAULIEU.

U. S. PATENT.

Filed for record the 3rd day of May, A. D. 1894, at 2:40
892 o'clock p. m.
Number 3439. Ex.
Certificate No. 3254.

The United States of America, to all to whom these presents shall come, greeting:

Whereas, Charles Beaulieu, of St. Louis County, Minnesota, has deposited in the General Land Office of the United States a certificate of the register of the Land Office at Duluth, Minnesota, whereby it appears that full payment the provisions of the Act of Congress of the 24th of April, 1820, entitled "An act making further provision for the sale of the public lands," and the acts supplemental thereto, for
893 the Southeast quarter of the Southwest quarter and the Southwest quarter of the Southeast quarter of Section Thirty-three in Township Fifty-eight North of Range Seventeen West, and the Lots numbered Two and Three of Section Four in Township Fifty-seven North of Range Seventeen West of the Fourth Principal Meridian, in Minnesota, containing one hundred and seventy-one acres and seventeen hundredths of an acre, according to the official plat of the survey of the said lands, returned to the General Land Office by the surveyor general, which said tract has been purchased by the said Charles Beaulieu.

Now, know ye, that the United States of America, in consideration of the premises, and in conformity with the
894 several acts of congress in such case made and provided, have given and granted, and by these presents do give and grant, unto the said Charles Beaulieu, and to his heirs, the said tract above described; to have and to hold the same, together with all the rights, privileges, immunities and appurtenances, of whatsoever nature, thereunto belonging, unto the said Charles Beaulieu, and to his heirs and assigns, forever.

In testimony whereof, I, Grover Cleveland, president of the United States of America, have caused these letters

to be made patent and the seal of the General Land Office to be hereunto affixed.

Given under my hand, at the City of Washington, the third day of October, in the year of our Lord one thousand eight hundred and eighty-eight, and of the independence of the United States the one hundred and thirteenth.

By the President:

GROVER CLEVELAND.

By M. McKEAN, Secretary.

(United States General Land Office.)

(Seal.) 895

ROBT. W. ROSS,

Recorder of the General Land Office.

Recorded, Vol. 16, page 225.

STATE OF MINNESOTA,)

County of St. Louis.)

I, Peter J. Borgstrom, register of deeds of said county, do hereby certify that the within is a true and correct copy of the records in my office, as found in Book G of Patents, on page 137. That I have compared such copy with the original record, and that it is a correct transcript therefrom. 896

and that it is a correct transcript therefrom.

Dated this 10th day of June, A. D. 1895.

P. J. BORGSTROM,

Register of Deeds.

By B. O. LOE, Deputy.

(Official Seal.)

COMPLAINANT'S EXHIBIT "A. C."

Offered in evidence on page 187.

Book 67 of Deeds, page 396.

Filed Nov. 2nd, 1892, at 3 p. m.

Simon J. Murphy to Temple E. Dorr. 897

DEED.

This indenture, made this twenty-second day of September, in the year of our Lord one thousand eight hundred and ninety, between Simon J. Murphy and Ann M. Murphy, his wife, of Detroit, Wayne County, Michigan, parties of the first part, and Temple E. Dorr, of Saginaw, Saginaw County, Michigan, party of the second part.

Witnesseth, That the said parties of the first part, for

and in consideration of the sum of fifty-three thousand dollars ($53,000.00) to them in hand paid by the said party of the second part, the receipt whereof is hereby confessed and acknowledged, have granted, bargained, sold, remised, released, aliened and confirmed, and by these presents do grant, bargain, sell, remise, alien and confirm unto the party of the second part, and to his heirs and assigns, forever, an undivided one-sixth interest in all those certain pieces or parcels of land, situate, lying and being in the County of St. Louis, State of Minnesota, known and de-
898 scribed as follows, to-wit:

In Township Fifty-three (53) North, Range Fourteen (14) West, in Section Seventeen (17), the North West quarter; in Section Nineteen (19), East half of North East quarter and Lots numbered Three (3) and Four (4); in Section Twenty (20), West half of North West quarter; in Section Twenty-one (21), South East quarter of South West quarter; in Section Twenty-nine (29), North East quarter of North East quarter, South West quarter of North East quarter.

In Township Fifty-three (53) North, Range Fifteen (15) West, in Section Three (3), West half of South West quarter, South East quarter of South East quarter; in Section
899 Four (4), North West quarter of North West quarter, South East quarter of South est quarter, South West quarter of South East quarter, East half of South East quarter; in Section Five (5), North East quarter of North East quarter, West half of North East quarter, North West quarter, South West quarter, West half of South East quarter; in Section Six (6), North East quarter, North West quarter, North West quarter of South East quarter, East half of South East quarter; in Section Eight (8), East half of North East quarter, North West quarter of North East quarter, North West quarter of North West quarter; in Section Nine (9), North East quarter, North half of North West quarter; in Section Ten (10), North half of North West quarter, South
900 half of South West quarter, South West quarter of South East quarter; in Section Twlve, North East quarter of North East quarter; in Section Fourteen (14), South East quarter of North West quarter, East half of South West quarter; in Section Fifteen (15), South East quarter of North East quarter, West half of North East quarter, North half of North West quarter; in Section Twenty-two (22), South West quarter of South East quarter; in Section Twenty-three (23), South West quarter of North East quarter, East half of North West quarter; in Section Twenty-four (24),

Lot numbered Four (4); in Section Twenty-five (25), South half of South East quarter; in Section Twenty Six (26), North West quarter of North East quarter; in Section Twenty-seven (27), South half of North West quarter; in Section Thirty-three (33), West half of South East quarter; in Section Thirty-four (34), North West quarter of North East quarter.

In Township Fifty-four (54) North, Range Fourteen (14) West, in Section Twenty-seven (27), North half of South West quarter; in Section Twenty-nine (29), North West quarter of South West quarter, South East quarter of South West quarter; in Section Thirty (30), ast half of South East quarter; in Section Thirty-two (32), North half of North West quarter. 901

In Township Fifty-four (54) North, Range Fifteen (15) West, in Section Nineteen (19), North East quarter of South East quarter; in Secton Thirty (30), West half of South East quarter; in Section Thirty-one (31), North West quarter of North West quarter; in Section Thirty-three (33), South East quarter of North East quarter; in Section Thirty-five (35), North West quarter of South East quarter, East half of South East quarter.

In Township Fifty-six (56) North, Range Seventeen (17) West, in Section Twenty-eight (28), South East quarter of North East quarter, Lot numbered One (1); in Section Thirty-three (33), Lots numbered Three (3), Four (4) Five (5), Nine (9); in Section Thirty-four (34), Lot numbered Three (3), North Wst quarter of South West quarter. 902

In Township Fifty-seven (57) North, Range Seventeen (17) West, in Section One (1), Lots numbered Two (2), Three (3), Four (4); in Section Two (2), Lots numbered One (1), Two (2), Three (3); in Section Three (3), Lots numbered One (1), Two (2); in Section Four (4), Lots numbered One (1), Eight (8); in Section Six (6), East half of South West quarter; in Secton Eight (8), South half of North East quarter, North East quarter of South East quarter; in Secion Nine (9), Lots numbered One (1), Two (2), Three (3), Four (4), South West quarter of North West quarter, North West quarter of South West quarter, North East quarter of South West quarter; in Section Ten (10), Lots numbered One (1), Two (2), Three (3), Four (4), South East quarter of North West quarter, North half of South West quarter; in Section Eleven (11), Lot numbered Three (3), North West quarter of South West quarter. 903

In Township Fifty-seven (57) North, Range Eighteen (18)

West, in Section Five (5), Lots numbered Three (3), Four (4), Five (5), South East quarter of North West quarter; in Section Nine (9), East half of South East quarter; in Section Ten (10), Lots numbered One (1), Two (2), Three (3).

In Township Fifty-eight (58) North, Range Fourteen (14) West, in Section Seventeen (17), South half of North West quarter, North half of South West quarter.

In Township Fifty-eight (58) North, Range Sixteen (16) West, in Section Thirty (30), North West quarter of South West quarter.

904 In Township Fifty-eight (58) North, Range Seventeen (17) West, in Section Thirteen, South West quarter of North East quarter, South half of North West quarter, South West quarter, North West quarter of South East quarter; in Section Fourteen (14), South half of South West quarter, South East quarter; in Section Twenty-two (22), North East quarter, South East quarter; in Section Twenty-three (23), North East quarter, North West quarter, North West quarter of South West quarter, East half of South West quarter, West half of South East quarter, North East quarter of South East quarter; in Section Twenty-four (24), North East quarter, North West quarter, West half of South East
905 quarter, South East quarter of South East quarter; in Section Twenty-five (25), East half of North East quarter, North West quarter of North East quarter, South East quarter of North West quarter, East half of South West quarter, South West quarter of South East quarter, North East quarter of South East quarter; in Section Twenty-seven (27), South East quarter of South East quarter; in Section hirty-one (31), East half of North East quarter; in Section Thirty-two (32), West half of North West quarter, in Section Thirty-four (34), South West quarter of South West quarter, East half of South West quarter, Lots numbered One (1), Two (2); in Section Thirty-five (35), South East
906 quarter of North East quarter, North West quarter, North East quarter of South West quarter, Lot numbered Two (2).

In Township Fifty-five (55) North, Range Twenty-one (21) West, in Section Four (4), South half of North East quarter, North half of South East quarter.

In Township Fifty-six (56) North, Range Twenty (20) West, in Section Fourteen (14), South West quarter of North East quarter, South West quarter of North West quarter, East half of South West quarter, North West quarter of South East quarter; in Section Twenty-three (23), South West quarter of North East quarter, East half of

North West quarter, East half of South West quarter, West half of South East quarter; in Section Twenty-six (26), East half of North West quarter, South West quarter of North West quarter, North East quarter of South West quarter.

In Township Fifty-seven (57) North, Range Seventeen (17) West, in Section Five (5), South West quarter of North East quarter, South West quarter of North West quarter, North West quarter of South West quarter, East half of South West quarter, North West quarter of South East quarter; in Section Six (6), South half of North East quarter, Lots numbered Four (4), Five (5). 907

In ownship ifty-seven (557) North, Range Eighteen (18) West, in Section One (1), Lot numbered One (1), South East quarter of North East quarter.

In Township Fifty-eight (58) North, Range Seventeen (17) West, in Section Nineteen (19), South West quarter of South East quarter, East half of South East quarter; in Section wenty (20), West half of South West quarter, West half of South East quarter, South East quarter of South East quarter; in Section Twenty-two (22), South East quarter of North West quarter, South West quarter; in Section Twenty-seven (27), North West quarter of North East quarter, East half of North West quarter; in Section Twenty-nine (29), 908 North West quarter of North East quarter, West half of North West quarter, South East quarter of North West quarter; in Section Thirty (30), South East quarter of North East quarter, West half of South East quarter, North East quarter of South East quarter; in Section Thirty-one (31), West half of North East quarter, East half of North West quarter; South West quarter, West half of South East quarter, North East quarter of South East quarter; in Section Thirty-two (32), North West quarter of South West quarter; being all the lands bought in Minnesota by Simon J. Murphy, on joint account with Robinson and Flinn.

Together with all and singular the hereditaments and 909 appurtenances thereunto belonging or in anywise appertaining; and the reversion or reversions, rmainder or remainders, rents, issues and profits thereof; and all the estate, right, title, interest, claim or demand whatsoever, of the said parties of the first part, either in law or equity, of, in and to the above bargained premises, with the said hereditaments and appurtenances: To have and to hold the premises as above described, with the appurtenances, unto the said party of the second part, his heirs and assigns, forever. And the said parties of the first part, for them-

selves, their heirs, executors and administrators, do covenant, grant, bargain and agree to and with the said party of the second part, his heirs and assigns, that they, Simon J. Murphy and Ann M. Murphy, the said parties of the first part, have not heretofore done, committed, or wittingly or willingly suffered to be done or committed, any act, matter or thing whatsoever whereby the premises hereby granted, or any part thereof, is, are or shall or may be charged or incumbered in title, estate or otherwise howsoever.

910 In witness whereof, the said parties of the first part have hereunto set their hands and seals the day and year first above written.

SIMON J. MURPHY. (L. S.)
ANN M. MURPHY. (L. S.)

Signed, sealed and delivered in presence of
WILLIAM H. MURPHY.
ANN M. MURPHY.

STATE OF MICHIGAN,)
County of Wayne.)

911 On this twenty-fifth day of September, in the year of our Lord one thousand eight hundred and ninety, before me, a notary public in and for said county, personally came the before named Simon J. Murphy and Ann M. Murphy, his wife, known to me to be the persons who executed the foregoing instrument, and acknowledged the same to be their free act and deed. And the said Ann M. Murphy, being by me privately examined, separate and apart from her said husband, acknowledged that she executed said instrument freely and without fear or compulsion from any one. And I further certify that the foregoing deed is executed according to the laws of the State of Michigan.

WILLIAM H. MURPHY,
912 Notary Public,
Wayne County, Michigan.

(William H. Murphy, Notary Public,
Wayne County, Mich.)

STATE OF MINNESOTA,)
County of St. Louis.)

I, Peter J. Borgstrom, register of deeds of said county, do hereby certify that the within is a true and correct copy

of the records in my office, as found in Book 67 of Deeds, on page 396. hat I have compared such copy with the original record, and that it is a correct transcript therefrom.

Dated this 10th day of June, A. D. 1895.

P. J. BORGSTROM,
Register of Deeds.
By B. O. LOE, Deputy.

(Official Seal.)

COMPLAINANT'S EXHIBIT "A. D." 913

Offered in evidence on page 187.
Book 39 of Deeds, page 56.
Filed Nov. 20th, A. D. 1889, at 11 a. m.
No. 12723.

Simon J. Murphy et ux to George O. Robinson.

DEED.

This indenture, made this second day of November, in the year of our Lord one thousand eight hundred and eighty-nine, between Simon J. Murphy and Ann M. Murphy, his wife, of Detroit, Wayne ounty, Michigan, parties of the first part, and George O. Robinson, of the same place, party of 914
the second part.

Witnesseth, That the said parties of the first part, for and in consideration of the sum of thirty-seven thousand five hundred twenty dollars and thirty-one cents ($37,520.31) to them in hand paid by the said party of the second part, the receipt whereof is hereby confessed and acknowledged, have granted, bargained, sold, remised, released, aliened and confirmed, and by these presents do grant, bargain, sell, remise, alien and confirm unto the party of the second part, and to his heirs and assigns, forever, an undivided one-sixth interest in all those certain pieces or parcels of land, lying and being in the County of St. Louis, State of Minnesota, 915
known and described as follows, to-wit:

In Township Fifty-three (53) North, Range Fourteen (14) West, in Section Seventeen (17), N W 1-4; in Section Nineteen (19), E 1-2 of N E 1-4 and Lots numbered Three and Four (3 & 4); in Section Twenty (20), W 1-2 of N W 1-4; in Section Twenty-one (21), S E 1-4 of S W 1-4; in Section Twenty-nine (29), N E 1-4 of N E 1-4, S W 1-4 of N E 1-4.

In Township Fifty-three (53) North, Range Fifteen (15) West, in Section Three (3), W 1-2 of S W 1-4, S E 1-4 of S E

1-4; in Section Four (4), N W 1-4 of N W 1-4, S E 1-4 of S W 1-4, S W 1-4 of S E 1-4, E 1-2 of S E 1-4; in Section Five (5), N E 1-4 of N E 1-4, W 1-2 of N E 1-4, N W 1-4, S W 1-4, W 1-2 of S E 1-4; n Section Six (6), N E 1-4, N W 1-4, N W 1-4 of S E 1-4, E 1-2 of S E 1-4; in Section Eight (8), E 1-2 of N E 1-4, N W 1-4 of N E 1-4, N W 1-4 of N W 1-4; in Section Nine (9), N E 1-4, N 1-2 of N W 1-4; in Section Ten (10), N 1-2 of N W 1-4, S 1-2 of S W 1-4, S W 1-4 of S E 1-4; in Section Twelve (12), N E 1-4 of N E 1-4; in Section Fourteen (14), S E 1-4 of N W 1-4, E 1-2 of S W 1-4; in Section Fifteen (15),
916 S E 1-4 of N E 1-4, W 1-2 of N E 1-4, N 1-2 of N W 1-4; in Section Twenty-two (22), S W 1-4 of S E 1-4; in Section Twenty-three (23), S W 1-4 of N E 1-4, E 1-2 of N W 1-4; in Section Twenty-four (24), Lot numbered Four (4); in Section Twenty-five (25), S 1-2 of S E 1-4; in Section Twenty-six (26), N W 1-4 of N E 1-4; in Section Twenty-seven (27), S 1-2 of N W 1-4; in Section Thirty-three (33), W 1-2 of S E 1-4; in Section Thirty-four (34), N W 1-4 of N E 1-4.

In Township Fifty-four (54) North, Range Fourteen (14) West, in Section Twenty-seven (27), N 1-2 of S W 1-4; in Section Twenty-nine (29), N W 1-4 of S W 1-4, S E 1-4 of S W 1-4; in Section Thirty (30), E 1-2 of S E 1-4; in Section Thirty-two
917 (32), N 1-2 of N W 1-4.

In Township Fifty-four (54) North, Range Fifteen (15) West, in Section Nineteen (19), N E 1-4 of S E 1-4; in Section Thirty (30), W 1-2 of S E 1-4; in Section Thirty-one (31), N W 1-4 of N W 1-4; in Section Thirty-three (33), S E 1-4 of N E 1-4; in Section Thirty-five (35), N W 1-4 of S E 1-4, E 1-2 of S E 1-4.

In Township Fifty-six (56) North, Range Seventeen (17) West, in Section Twenty-eight (28), S E 1-4 of N E 1-4, Lot numbered One (1); in Section Thirty-three (33), Lots numbered Three (3), Four (4), Five (5), Nine (9); in Section Thirty-four (34), Lot numbered Three (3), N W 1-4 of S W 1-4.

918 In Township Fify-seven (57) North, Range Seventeen (17) West, in Section One (1), Lots numbered Two (2), Three (3), Four (4); in Section Two (2), Lots numbered One (1), Two (2), Three (3); in Section Three (3), Lots numbered One (1), Two (2); in Section Four (4), Lots numbered One (1), Eight (8); in Section Six (6), E 1-2 of S W 1-4; in Section Eight (8), S 1-2 of N E 1-4, N E 1-4 of S E 1-4; in Section Nine (9), Lots numbered One (1), Two (2), Three (3), Four (4), S W 1-4 of N W 1-4, N W 1-4 of S W 1-4, N E 1-4 of S W 1-4; in Section Ten (10), Lots numbered One (1), Two (2), Three (3), Four

(4), S E 1-4 of N W 1-4, N 1-2 of S W 1-4; in Section Eleven (11), Lot numbered Three (3), N W 1-4 of S W 1-4.

In Township Fifty-seven (57) North, Range Eighteen (18) West, in Section Five (5), Lots numbered Three (3), Four (4), Five (5), S E 1-4 of N W 1-4; in Section Nine (9), E 1-2 of S E 1-4; in Section Ten (10), Lots numbered One (1), Two (2), Three (3).

In Township Fifty-eight (58) North, Range Fourteen (14) Wst, in Section Seventeen (17), S 1-2 of N W 1-4, N 1-2 of S W 1-4.

In Township Fifty-eight (58) North, Range Sixteen (16) 919
West, in Section Thirty (30), N W 1-4 of S W 1-4.

In Township Fifty-eight (58) North, Range Seventeen (17) West, in Section Thirteen (13), S W 1-4 of N E 1-4, S 1-2 of N W 1-4, S W 1-4, N W 1-4 of S E 1-4; in Section Fourteen (14), S 1-2 of S W 1-4, S E 1-4; in Section Twenty-two (22), N E 1-4, S E 1-4; in Section Twenty-three (23), N E 1-4, N W 1-4, N W 1-4 of S W 1-4, E 1-2 of S W 1-4, W 1-2 of S E 1-4, N E 1-4 of S E 1-4; in Section Twenty-four (24), N E 1-4, N W 1-4, W 1-2 of S E 1-4, S E 1-4 of S E 1-4; in Section Twenty-five (25), E 1-2 of N E 1-4, N W 1-4 of N E 1-4, S E 1-4 of N W 1-4, E 1-2 of S W 1-4, S W 1-4 of S E 1-4, N E 1-4 of S E 1-4; in Section Twenty-seven (27), S E 1-4 of S E 1-4; 920
in Section Thirty-one (31), E 1-2 of N E 1-4; in Section Thirty-two (32), W 1-2 of N W 1-4; in Section Thirty-four (34), S W 1-4 of S W 1-4, E 1-2 of S W 1-4, Lots numbered One (1), Two (2); in Section Thirty-five (35), S E 1-4 of N E 1-4, N W 1-4, N E 1-4 of S W1-4, Lot numbered Two (2).

Also, forever, an undivided one-sixth interest of an undivided one-half interest in all those certain pieces or parcels of land, situate, lying and being in the County of St. Louis, State of Minnesota, known and described as follows, to-wit:

In Township Fifty-five (55) North, Range Twenty-one (21) West, in Section Four (4), S 1-2 of N E 1-4, N 1-2 of S E 1-4. 921

In Township Fifty-six (56) North, Range Twenty (20) West, in Section Fourteen (14), S W 1-4 of N E 1-4, S E 1-4 of N W 1-4, E 1-2 of S W 1-4, N W 1-4 of S E 1-4; in Section wenty-three (23), S W 1-4 of N E 1-4, E 1-2 of N W 1-4, E 1-2 of S W 1-4, W 1-2 of S E 1-4; in Section Twenty-six (26), E 1-2 of N W 1-4, S W 1-4 of N W 1-4, N E 1-4 of S W 1-4.

In Township Fifty-seven (57) North, Range Seventeen (17) West, in Section Five (5), S W 1-4 of N E 1-4, S W 1-4 of N W 1-4, N W 1-4 of S W 1-4, E 1-2 of S W 1-4, N W 1-4 of S E

1-4; in Section Six (6), S 1-2 of N E 1-4, Lots numbered Four (4), Five (5).

In Township Fifty-seven (57) North, Range Eighteen (18) est, in Section One (1), Lot numbered One (1), S E 1-4 of N E 1-4.

In Township Fifty-eight (58) North, Range Seventeen (17) West, in Section Nineteen (19), S W 1-4 of S E 1-4, E 1-2 of S E 1-4; in Section Twenty (20), W 1-2 of S W 1-4, W 1-2 of S E 1-4, S E 1-4 of S E 1-4; in Section Twenty-two (22), S E 1-4 of N W 1-4, S W 1-4; in Section Twenty-seven (27), N W
922 1-4 of N E 1-4, E 1-2 of N W 1-4; in Section Twenty-nine (29), N W 1-4 of N E 1-4, W 1-2 of N W 1-4, S E 1-4 of N W 1-4; in Section Thirty (30), S E 1-4 of N E 1-4, W 1-2 of S E 1-4, N E 1-4 of S E 1-4; in Section Thirty-one (31), W 1-2 of N E 1-4, E 1-2 of N W 1-4, S W 1-4, W 1-2 of S E 1-4, N E 1-4 of S E 1-4; in Section Thirty-two (32), N W 1-4 of S W 1-4, being all the lands bought in Minnesota by Simon J. Murphy on joint account with Robinson and Flinn, together with all and singular the hereditaments and appurtenances thereunto belonging or in anywise appertaining; and the reversion or reversions, remainder or remainders, rents, issues and profits thereof; and all the estate, right, title, in-
923 terest, claim or demand whatsoever, of the said parties of the first part, either in law or equity, of, in and to the above bargained premises, with the said hereditaments and appurtenances.

To have and to hold the premises as before described, with the appurtenances, unto the said party of the second part, his heirs and assigns, forever.

And the said parties of the first part, for themselves, their heirs, excutors and administrators, do covenant, grant, bargain and agree to and with the said party of the second part, his heirs and assigns, that they, Simon J. Murphy and Ann M. Murphy, the said parties of the first part,
924 have not heretofore done, committed, or wittingly or willingly suffered to be done or committed, any act, matter or thing, whatsoever, whereby the premises hereby granted, or any part thereof, is, are or shall or may be charged or incumbered in title, esate or otherwise, howsoever.

In witness whereof, the said parties of the first part have hereunto set their hands and seals the day and year first above written.

SIMON J. MURPHY. (L. S.)
ANN M. MURPHY. (L. S.)

Signed, sealed and delivered in presence of
WILLIAM H. MURPHY.
H. F. McKINNON.

STATE OF MICHIGAN,)
County of Wayne.)

On this eleventh day of November, in the year of our Lord one thousand eight hundred and eighty-nine, before me, a notary public in and for said county, personally came the before named Simon J. Murphy and Ann M. Murphy, his wife, known to me to be the persons who executed the foregoing instrument, and acknowledged the same to be their free act and deed. And the said Ann M. Murphy, being by me privately examined, separate and apart from her said husband, acknowledged that she executed said instrument freely and without fear or compulsion from any one. 925

WILLIAM H. MURPHY,
Notary Public,
Wayne County, Michigan.

And I further certify that the foregoing deed is executed according to the laws of the State of Michigan.

WILLIAM H. MURPHY,
Notary Public,
Wayne County, Michigan.

(William H. Murphy, Notary Public,
Wayne County, Mich.) 926

STATE OF MINNESOTA,)
County of St. Louis.)

I, Peter J. Borgstrom, register of deeds of said county, do hereby certify that the within is a true and correct copy of the records in my office, as found in Book 39 of Deeds, on page 56. That I have compared such copy with the original record, and that it is a correct transcript therefrom.

Dated this 10th day of June, A. D. 1895.

P. J. BORGSTROM,
Register of Deeds.
By B. O. LOE, Deputy. 927

County of St. Louis.)

EXHBIT "A. E."

Offered in evidence on page 187.

QUIT CLAIM DEED.

This indenture, made the seventeenth day of June, in the year of our Lord one thousand eight hundred and ninety-

three, between The Security Land and Exploration Company, a corporation organized and existing under the laws of the State of Minnesota, of the first part, and Simon J. Murphy, of Detroit, Michigan, representing an undivided one-half (1-2) interest, and George O. Robinson and Elisha H. Flinn, of Detroit, Michigan, and Temple E. Dorr, of Saginaw, Michigan, representing each an undivided one-sixth (1-6) interest, of the second part.

Witnesseth, That the said party of the first part, for and in consideration of the sum of one dollar, and quit-claim
928 deed, from the parties of the second part, to the party of the first part therein, of same date herewith, to it in hand paid by the said parties of the second part, the receipt whereof is hereby confessed and acknowledged, does by these presents grant, bargain, sell, remise, release and forever quit-claim unto the said parties of the second part, and to their heirs and assigns, forever.

All those certain pieces or parcels of land, situated in the St. Louis County, and State of Minnesota, known and described as follows:

All that part of the South half of Northeast quarter (S 1-2 of N E 1-4) and the Southeast quarter (S E 1-4) of Section
929 Four (4), in Township Fifty-seven (57) North, Range Seventeen (17) West, lying Northerly and Easterly of a line drawn from the center of said Section to the Southeast corner thereof, also North half of Section Nine (9), in Township Fifty-seven (57) North, Range Seventeen (17) West.

Together with all and singular the hereditaments and appurtenances thereunto belonging or in anywise appertaining; to have and to hold the said premises to the said parties of the second part, and to their heirs and assigns, to the sole and proper use, benefit and behoof of the said parties of the second part, heirs and assigns, forever.

In witness whereof, the said party of the first part has
930 hereunto set its hand and seal the day and year first above written.

SECURITY LAND AND EXPLORATION COMPANY.
By JAMES T. HALE, President.

Attest:
JESSE NORTON,
Secretary.

Signed, sealed and delivered in presence of
C. F. MORGAN.
ALSTON G. MESSER.

STATE OF MINNESOTA,)
County of St. Louis.)

On this twenty-eighth day of August, 1893, before me appeared James T. Hale, to me personally known, who, being by me duly sworn, did say that he is the president of Security Land and Exploration Company, and that the seal affixed to said instrument is the corporate seal of said corporation, and that said instrument was signed and sealed in behalf of said corporation by authority of its board of directors, and said James T. Hale acknowledged said instrument to be the free act and deed of said corporation. 931

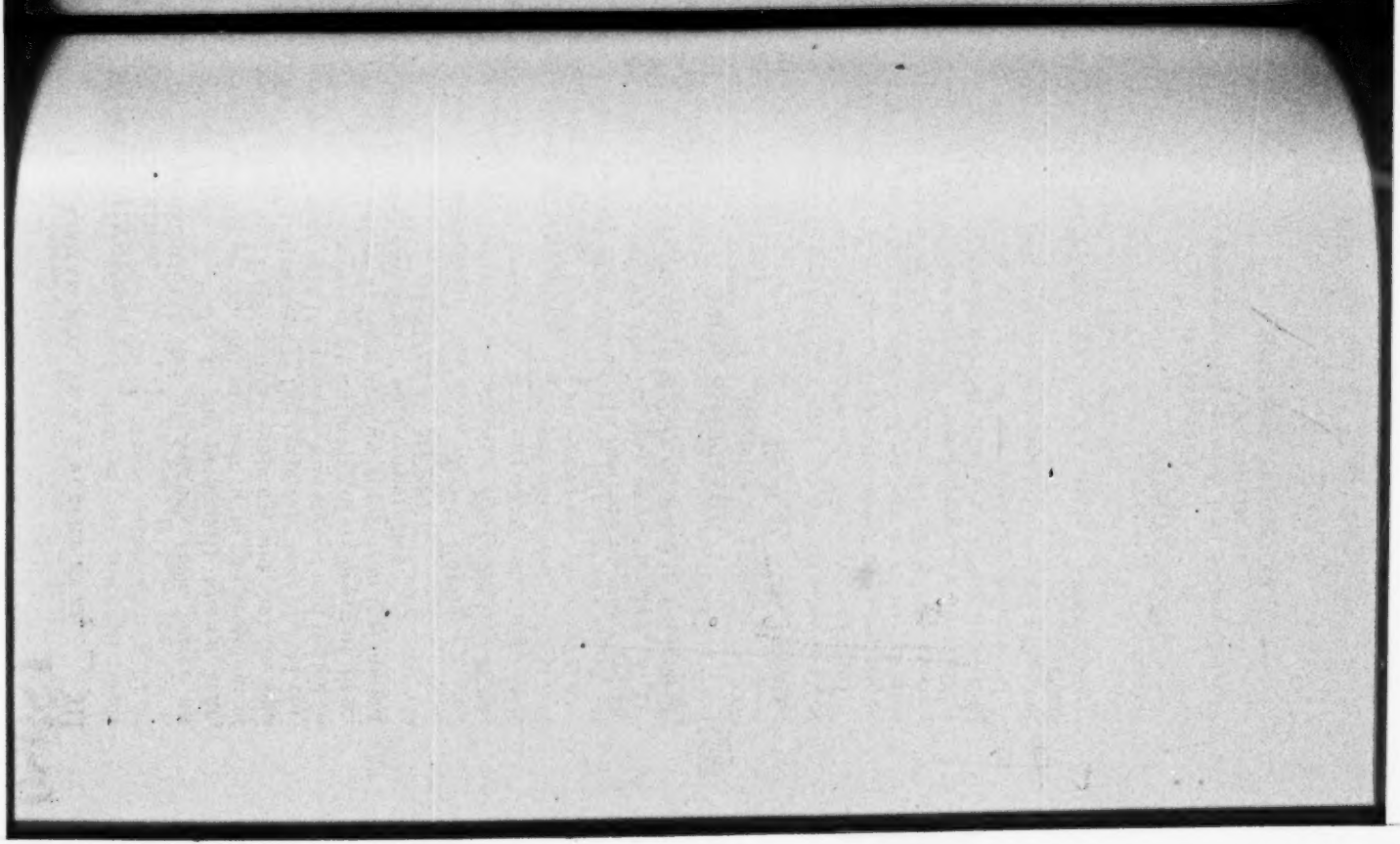
ALSTON G. MESSER,
Notary Public,
St. Louis Co., Minn.

(Official Seal.)

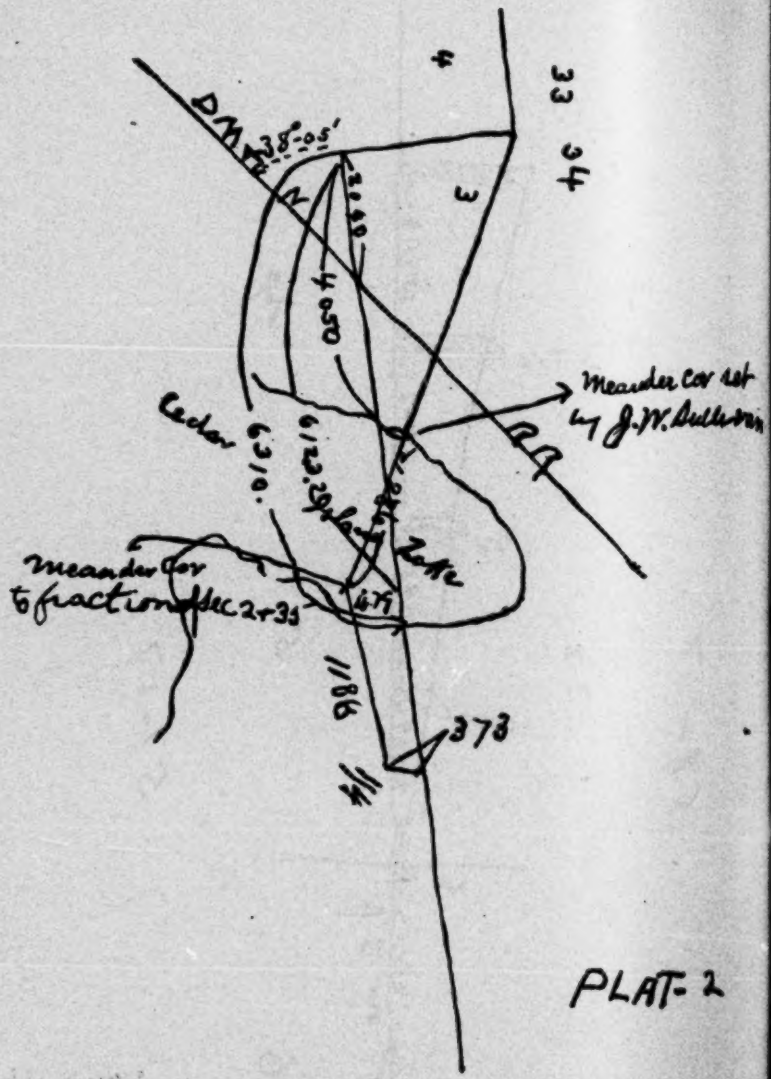
STATE OF MINNESOTA,)
County of St. Louis.)

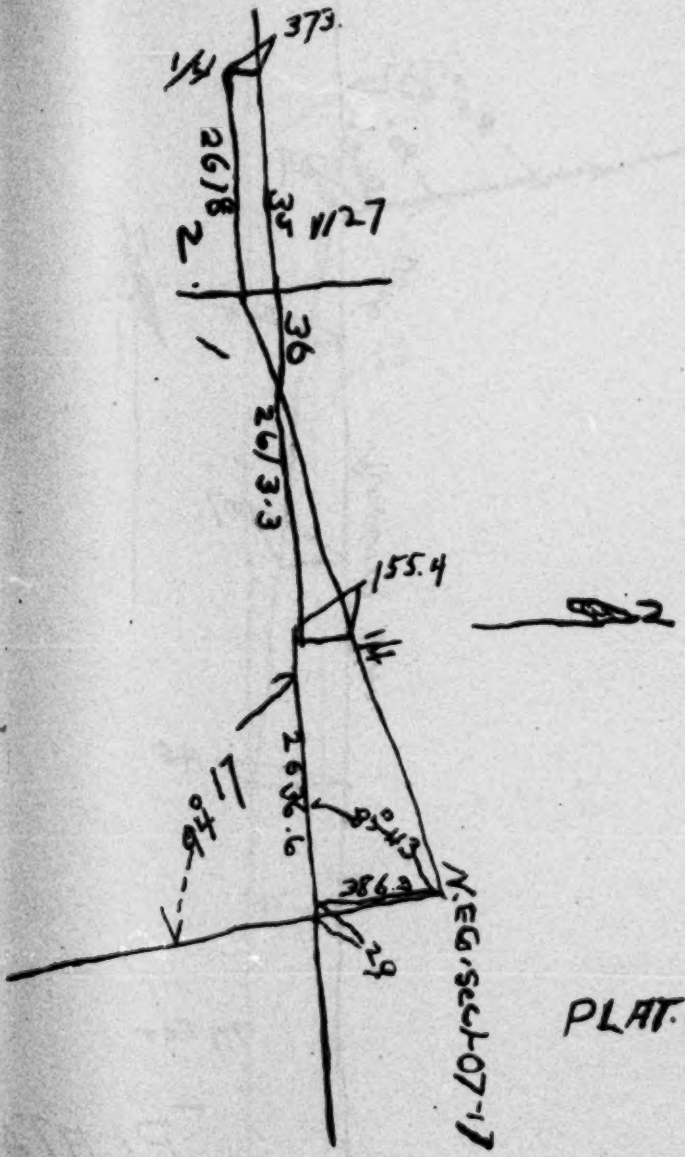
I hereby certify that the within instrument was filed in this office for record on the 7th day of September, A. D. 1893, at 4 o'clock p. m., and was duly recorded in Book 68 of Deeds, page 582.

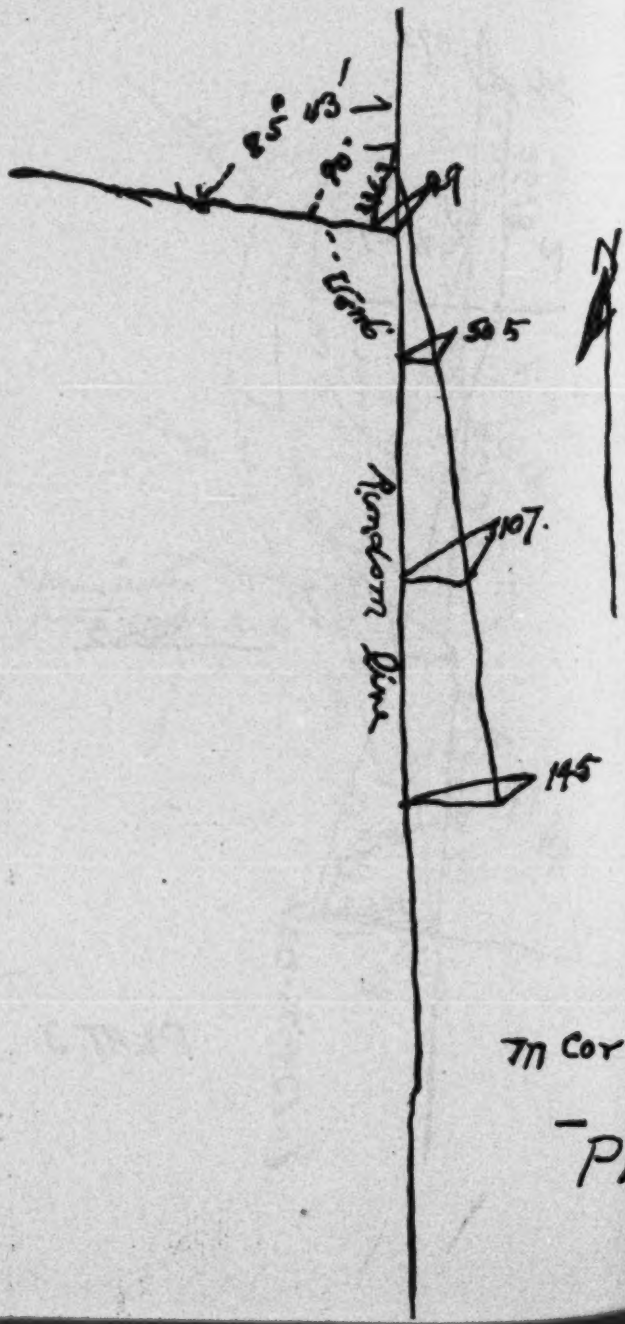
AMOS SHEPHARD, 932
Register of Deeds.
By B. O. LOE, Deputy.

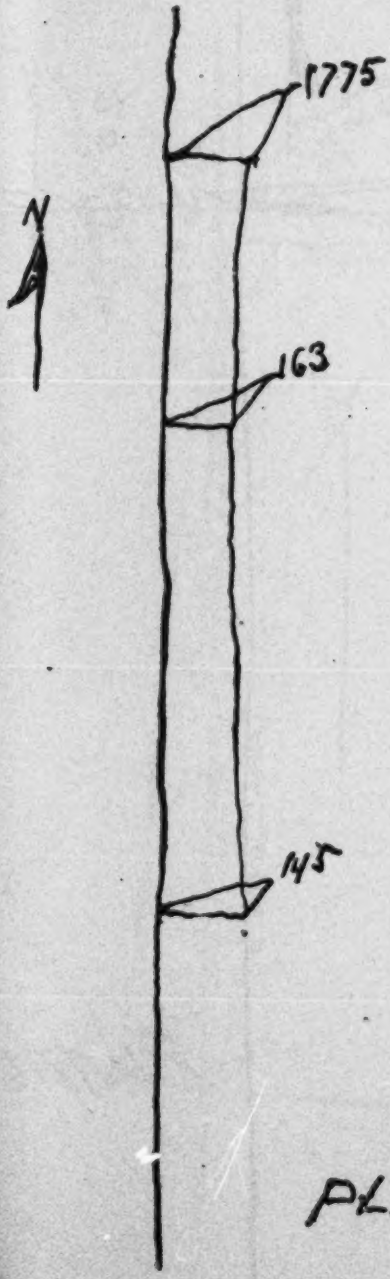


58-17
31
32
33
6
5
4
57-17
PLAT 4

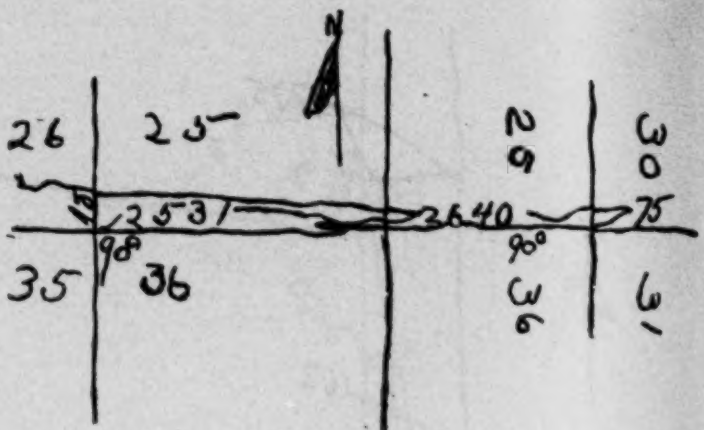

DMR
38°-05'
4
3
33
34
Meander cor set by J. W. Sullivan
Cedar
6310.
Meander cor to fraction Sec 2 & 35
9811
378
PLAT-2


373.
1/4
2618
24
1127
2
1
36
2673.3
155.4
1/4
2
2626.6
0°43'
386.3
29
N.E.G.S.C.T.O.T.
PLAT. 3

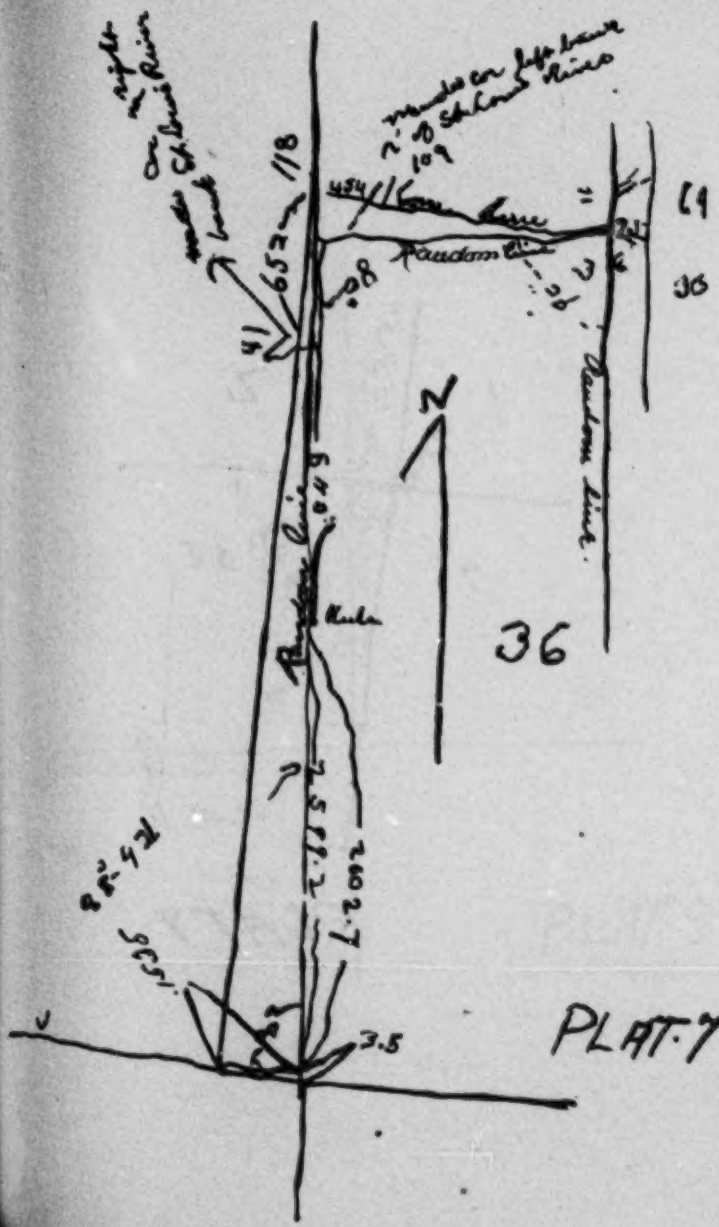

N
Random Line
107.
145
PLAT

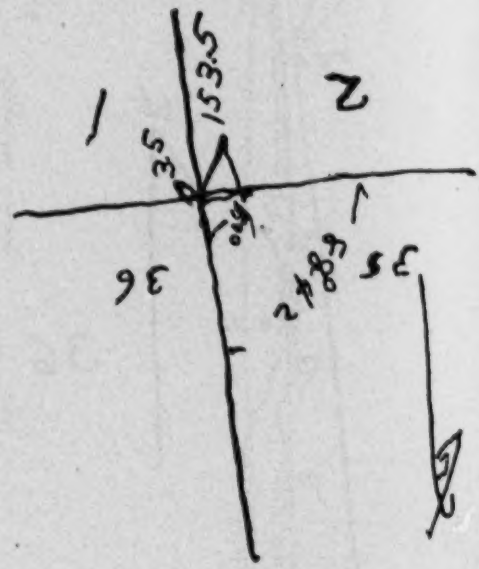


PLAT 5

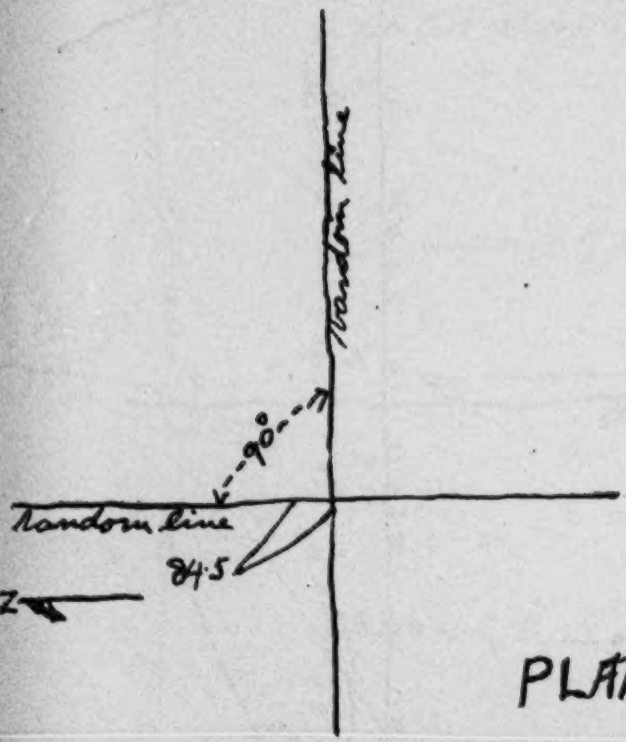


PLAT. 6

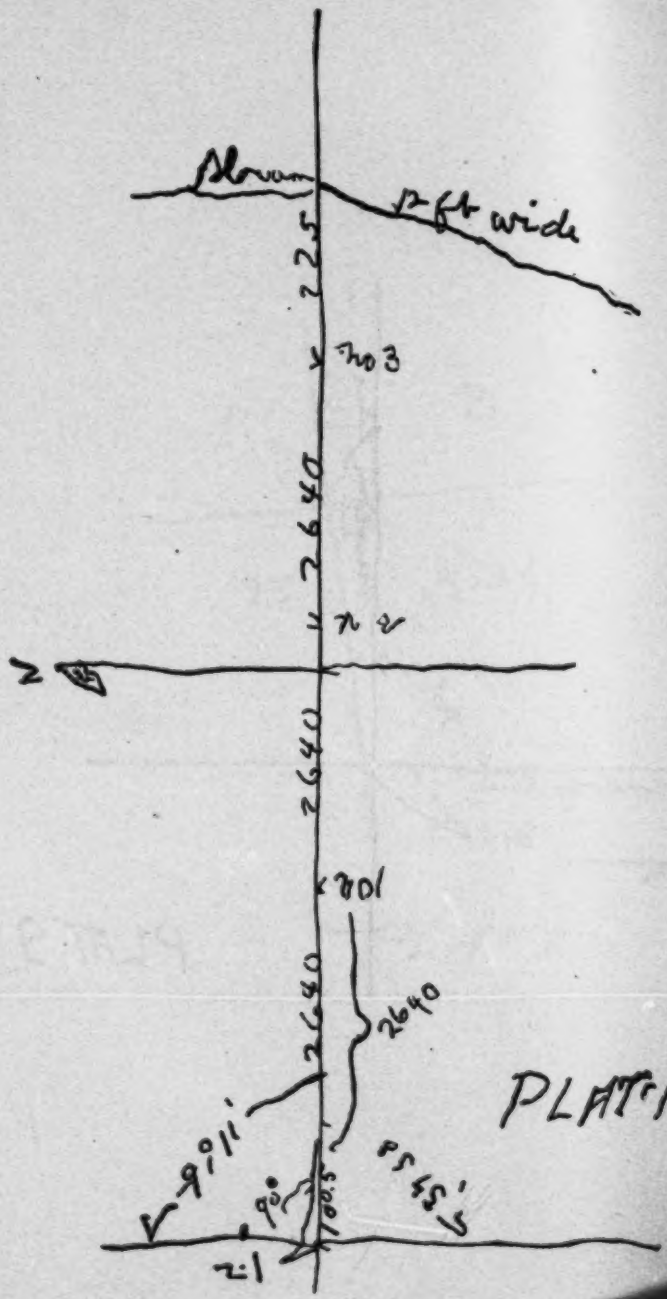

Random Line
36
PLAT. 7

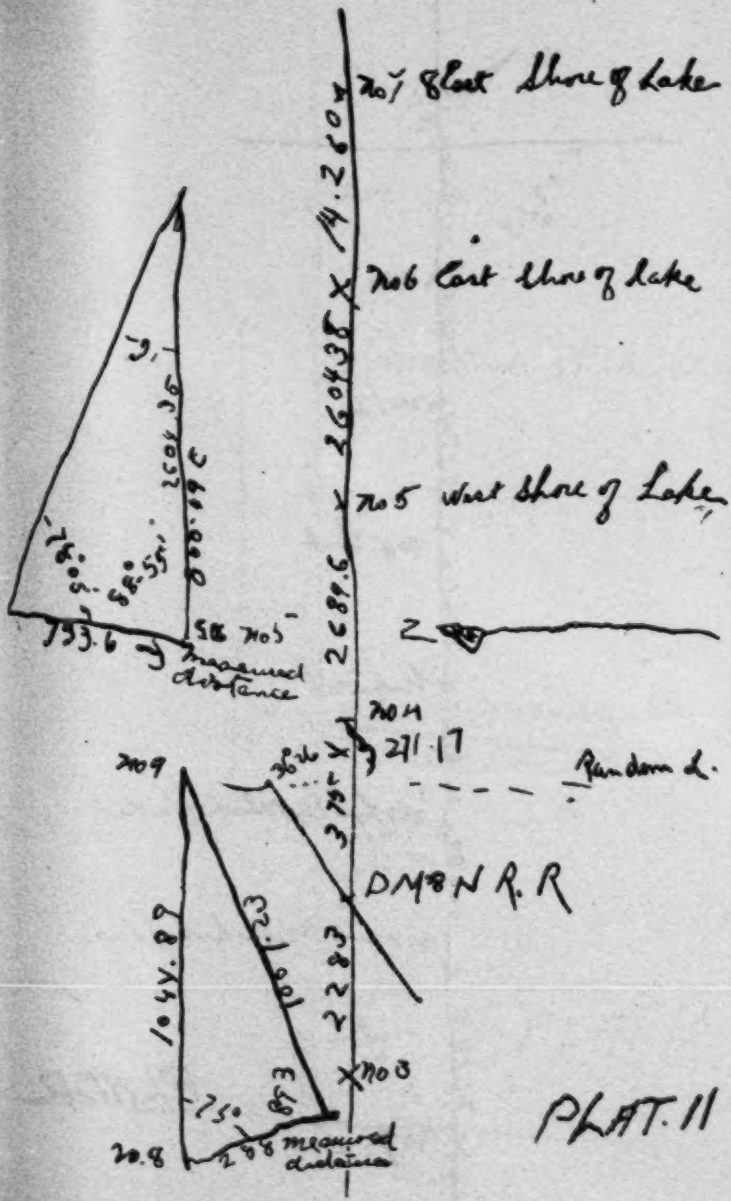


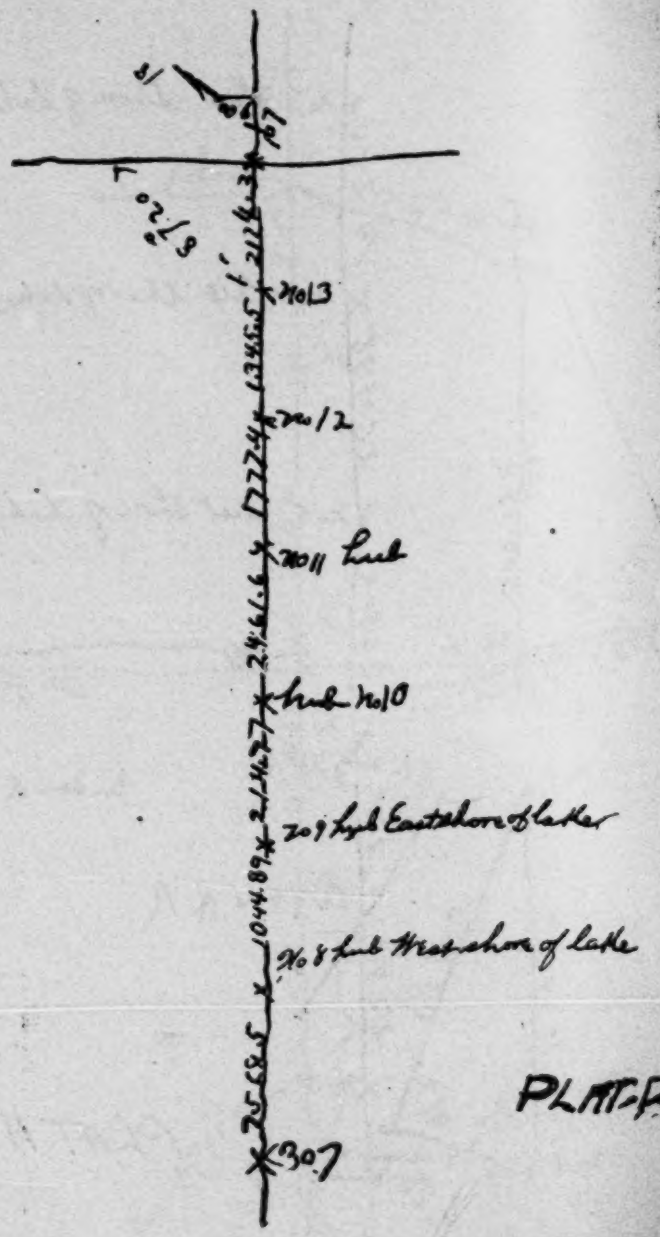
PLAT 9

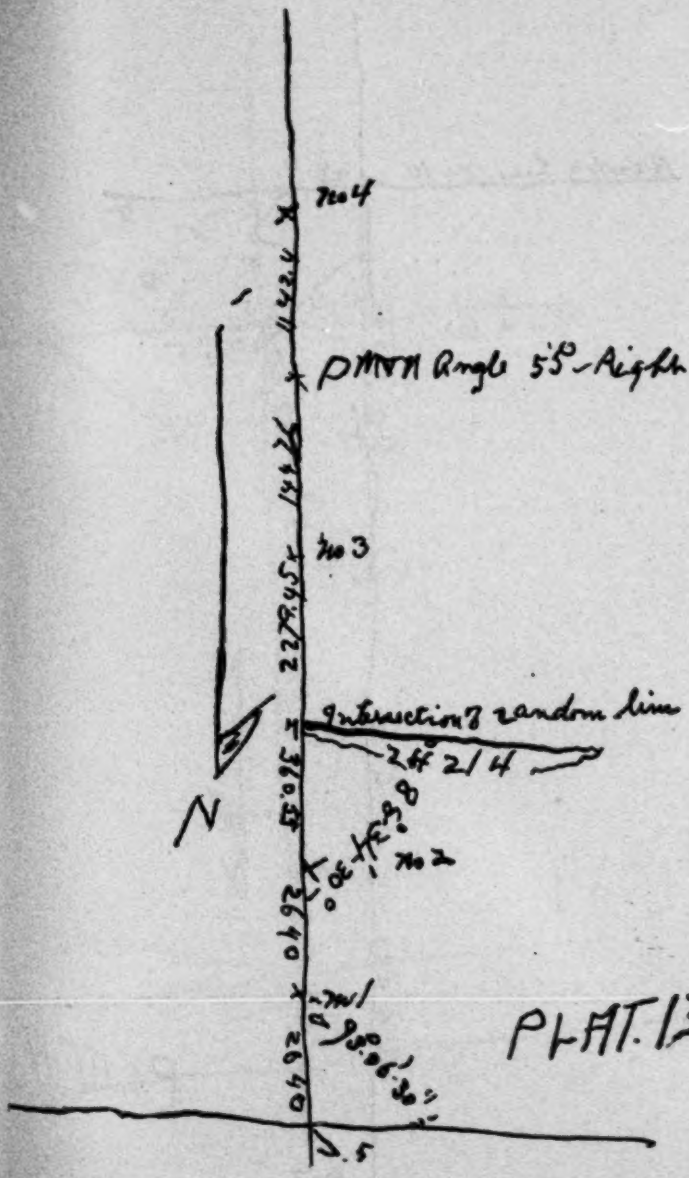


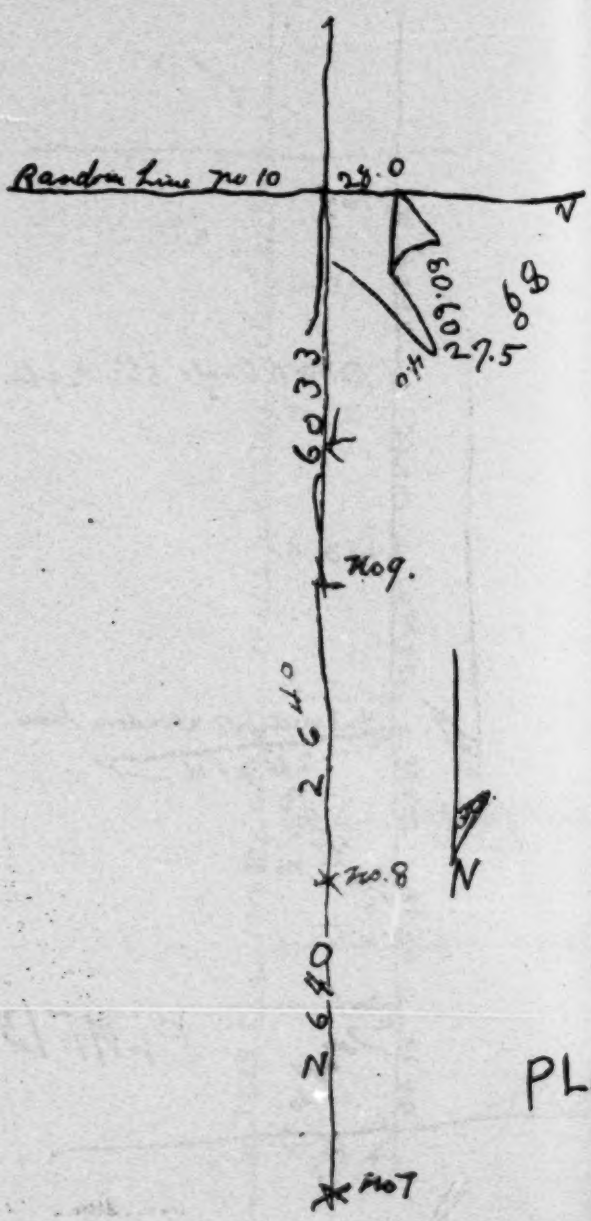
PLAT 9

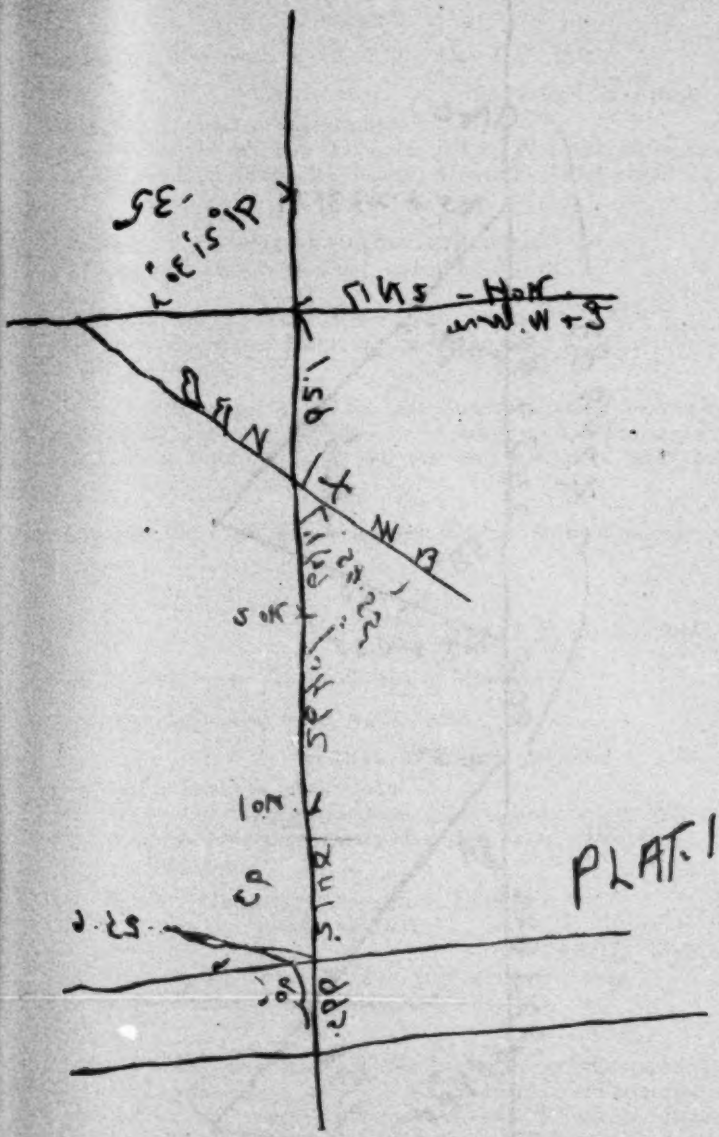

Slough
12 ft wide
2225
No 3
2640
N 2
N
2640
No 1
2640
2640
PLAT 10
N 9° 11' E
9°
100.5'
S 45° 45' E
2:1


No 7 East Shore of Lake
No 6 East Shore of Lake
No 5 West Shore of Lake
No 4
No 9
No 8
Random d.
D M & N R. R
PLAT. 11
measured distance
measured distance

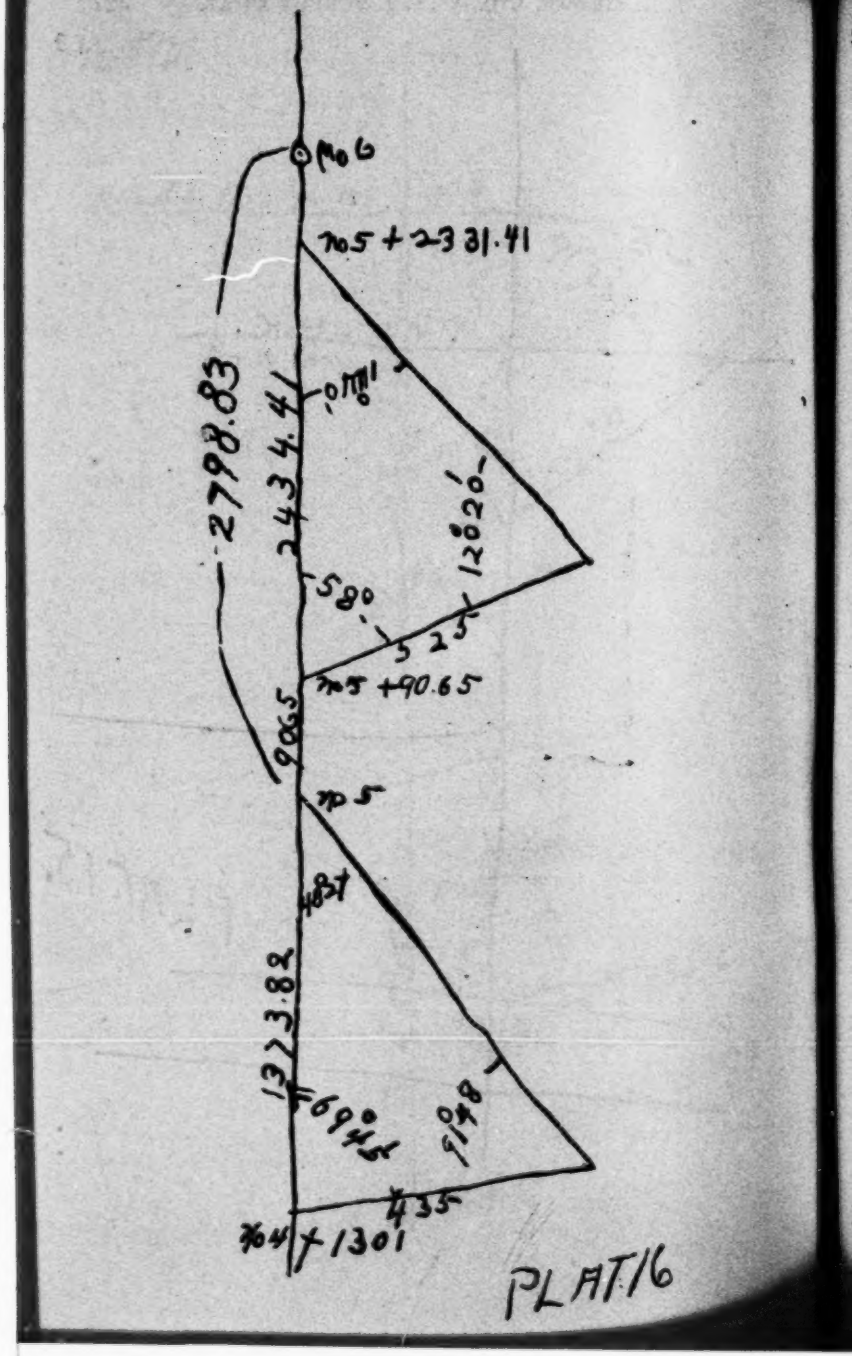

No 13
No 12
No 11 Land
Land No 10
No 9 Land East shore of Lake
No 8 Land West shore of Lake
PLAT-R
No 7


No 4
No 3
No 2
N
PLAT. 13


Random Line No 10
29.0
N
60.60
27.5
60.33
No 9.
26.40
No 8
N
26.40
No 7
PLAT 14



PLAT. 15.


706
705+2331.41
2798.83
2434.41
1°11'
580
12°20'
5 25
705+90.65
905
705
1323.82
1°48'
435
704+1301
PLAT 16

329 United States circuit court for the district of Minnesota, fifth division.

Term minutes, May term, A. D. 1899. May 18th, 1899.

THURSDAY MORNING.

Court opened pursuant to adjournment.

Present: Honorable William Lochren, judge; Wm. H. Grimshaw, U. S. marshal, by C. A. Nimocks, deputy; Henry D. Lang, clerk.

* * * * * * *

SIMON J. MURPHY, GEORGE O. ROBINSON, ELISHA H. Flynn, and Temple O. Dorr, plaintiffs,
vs.
P. H. KERWIN, AS UNITED STATES SURVEYOR-general for the district of Minnesota, and Thomas Crosswell, defendants. } No. 254.

Ordered, That this cause be, and the same hereby is, passed for hearing and argument at this time, the same to be taken up for hearing and argument at some future time to suit the convenience of court and counsel.

* * * * * * *

Ordered, That this court do now adjourn until to-morrow morning at ten o'clock.

A true record.

Attest:

HENRY D. LANG, *Clerk.*

United States circuit court for the district of Minnesota, fourth division.

Term minutes, September term, A. D. 1899.

FRIDAY MORNING, *December 1, 1899.*

Court opened pursuant to adjournment.

Present: Honorable William Lochren, U. S. district judge; William H. Grimshaw, United States marshal; Henry D. Lang, clerk, by G. F. Hitchcock, jr., deputy.

SIMON J. MURPHY, GEORGE O. ROBINSON, ELISHA H. Flinn, and Temple O. Dorr
v.
P. K. KIRWAN, AS UNITED STATES SURVEYOR-general for the district of Minnesota, and Thomas H. Crosswell. } Fifth division case.

The above-entitled cause came on for hearing upon the pleadings, final proofs, and arguments of counsel. Mr. M. H. Stanford appeared as solicitor for the complainants, and Messrs. Robert G. Evans,
330 W. F. Bailey, and John R. VanDerlip as solicitors and counsel for the defendants. And the argument of said cause not being concluded at the hour of adjournment it is by the court—

Ordered, That further proceedings therein be, and the same hereby are, continued until to-morrow morning at ten o'clock.

United States circuit court for the district of Minnesota, fourth division.

Term minutes, September term, A. D. 1899.

SATURDAY MORNING, *December 2, 1899.*

Court opened pursuant to adjournment.

Present: Honorable William Lochren, U. S. district judge; William H. Grimshaw, United States marshal; Henry D. Lang, clerk, by G. F. Hitchcock, jr., deputy.

SIMON J. MURPHY, GEORGE O. ROBINSON, Elisha H. Flinn, and Temple O. Dorr
v.
P. K. KIRWAN, AS UNITED STATES SURVEYOR-GENERAL for the district of Minnesota, and Thomas H. Crosswell.
} Fifth division case.

The above-entitled cause coming on to be further heard upon the pleadings, final proofs, and arguments of counsel, the same is further argued on behalf of the complainants by Mr. M. H. Stanford, and on behalf of the defendants by Messrs. Robert G. Evans, W. F. Bailey, and John R. Van Derlip, duly submitted and by the court taken under advisement.

UNITED STATES OF AMERICA,
District of Minnesota, fourth division, set.:

I, Henry D. Lang, clerk of the circuit court of the United States for the district of Minnesota, do hereby certify that I have carefully compared the foregoing paper writings with the original thereof, which are in my custody as such clerk, and that such copies are correct copies of such originals and of the whole thereof in the cause therein named.

Witness my hand as clerk, and the seal of said court.

Done at my office, in Minneapolis, Minnesota, this sixth day of December, A. D. 1899.

[SEAL OF THE COURT.] HENRY D. LANG, *Clerk*,
By ROBERT C. MABEY, *Deputy.*

(Indorsed:) Filed Dec. 10, 1900, as of Dec. 7, 1899. Henry D. Lang, clerk. By Thos. H. Pressnell, deputy clerk.

331 United States circuit court, district of Minnesota, fifth division.

SIMON J. MURPHY, GEORGE O. ROBINSON, ELISHA H. Flinn, and Temple O. Dorr
v.
P. H. KIRWAN, AS UNITED STATES SURVEYOR-GENERAL for the district of Minnesota, and Thomas H. Croswell.
} Decision.

This is a bill in equity wherein the complainants ask for a decree restraining and perpetually enjoining the defendants from making a survey of certain lands claimed by the complainants and described in the bill, surrounding Cedar Island Lake, in township 57 N., of range 17

W., of the fourth principal meridian, in the county of Saint Louis, Minnesota, such survey having been ordered by the Land Department of the United States. The defendant Kirwan is the United States surveyor-general for Minnesota, and the defendant Croswell is a deputy surveyor, with whom a contract has been made by order of the Commissioner of the General Land Office to make the survey. Upon [—] -rary injunction was issued as prayed for in the bill, and the order allowing the same was afterwards affirmed by the circuit court of appeals of this circuit.

Kirwin *v.* Murphy, 83 Fed., 275.

Upon final hearing the following facts appear:

1. On or about April 26, 1876, a contract for the survey of all lands in township 57 north, of range 17 west, in Saint Louis County, Minnesota, was made by the Government of the United States with one Henry S. Howe, as a deputy surveyor of the United States, and thereafter said Howe made and filed what purported to be field notes of a survey of said township, from which a purported official plat of said township was thereafter made and approved by the surveyor-general of the United States for the district of Minnesota and by the Commissioner of the General Land Office, of which plat Exhibit A attached to the bill of complaints is a substantially correct copy.

2. There is no evidence, nor any marks upon the ground, to indicate that any actual survey of said township 57 was ever made by said Howe, as required by his said contract, and by the rules and regulations of the General Land Office, or at all, beyond the running and due marking of the exterior boundary lines of said township, where the section, quarter, and other posts and markings established by him are and always have been clear, distinct, and readily found and traced. There is no evidence on the ground that section lines were ever run by him in or across
332 said township, or section corner posts or quarter posts ever located or set by him, except a corner post at the northwest corner of section thirty-six (36) and a quarter post in the western line of said section thirty-six (36), and there is no evidence that witness trees were ever blazed or marked by him.

3. Cedar Island Lake is a navigable, deep, and permanent body of water, fed principally by springs, having an area of about nine hundred (900) acres, instead of about eighteen hundred (1,800) acres as described in the field notes of Howe and shown on said official plat of said township. Instead of the shores of said lake being low and swampy, as stated in said field notes, the banks are generally high and sloping lands, suitable for agriculture, extending around the lake, and support a good growth of pine and other forest trees large enough for lumbering, such as will not grow in water. The condition was the same in 1876, and no material part of the land surrounding the lake is accretion. Southerly and westerly of said Cedar Island Lake are five other deep, navigable, and permanent lakes in the same township, none of which are shown by the field notes of Howe's survey or upon said Government official plat of said township, and all of which have, since the making of said official plat, been sold and patented by the Government as land according to said plat.

4. There is no evidence upon the ground that any meander line of said Cedar Island Lake was ever surveyed by said Howe, or any meander

posts placed by him about said lake, except one where the north line of said township encounters said lake. And the outlet of said lake is at a different place from that described in said field notes and shown upon said official plat. After the making of the said survey and plat and before its approval, complaints touching the accuracy thereof were made to the Commissioner of the General Land Office, but on the withdrawal of such complaints the said survey and plat were approved.

5. The land lying between the actual water line of said Cedar Island Lake and the meander line of that lake, as delineated on said official plat of said township, comprises the land in controversy in this suit, and is the same land directed to be surveyed by the Commissioner of the General Land Office and referred to in the surveyor's contract, which is attached as Exhibit A to the answer in this suit, being therein described as "the public lands situate in secs. 2, 3, 4, 9, 10, and 11, in township No. 57 N., R. 17 W., of the 4th principal meridian, lying between the 'old meander boundary of Cedar Island Lake,' as given by
the original field notes of Henry S. Howe, U. S. deputy sur-
333 veyor, approved by the surveyor-general of Minnesota Aug. 19, 1876, and the shore line of said Cedar Island Lake."

6. Prior to the commencement of this suit the United States has sold, and by its patents has conveyed to the purchasers, according to said official plat made from said Howe survey, all the land in said township 57, as the same appeared upon said plat; to which plat all of said patents expressly referred; it being then and still the only Government plat of said township.

7. The complainants are the grantees and owners by mesne conveyances from the patentees of the record title to the following-described fractional lots in said township, to wit: Lots one (1), two (2), three (3), in section two (2); lots one (1) and two (2), in section three (3); lots one (1) and eight (8), and portions of lots three (3), five (5), and six (6), in section four (4); lots one (1), two (2), three (3), and four (4), in section nine (9); lots one (1), two (2), three (3), and four (4), in section ten (10); and lot three (3), in section eleven (11), being the same lands which are more particularly described in complainants' bill; and each of which fractional lots appear and are represented on said official plat as bounded by and upon said Cedar Island Lake.

8. So far as appears none of the patentees of said lands had any notice or knowledge of any fraud or misconduct on the part of said Howe in or about the making of said survey and field notes, and all were purchasers in good faith of said lands.

9. Complainants purchased said fractional lots of land of the patentees of their grantees for the pine timber thereon, and the convenience of landing the same in the said Cedar Island Lake, to be driven to the place of manufacture; and before such purchase, in the year 1883, caused said lands to be explored and examined by an experienced timber estimator, who in making such examination used, is customary in such cases, a copy of said official plat of said township which did not have upon it any statement of the acreage or amount of land in any of the subdivisions; and who reported to the complainants his estimate of the amount of pine timber on said lands, and the general character of said land, and the riparian character thereof as bounded upon said Cedar Island Lake; but

did not discover or report any fraud or error in the survey of said township, or any error or mistake in the said official plat. And the said complainants purchased, paid for and took conveyances of said lands in good faith, and without any notice or knowledge of any such fraud, error, or mistake.

10. The other permanent lakes in said township, not shown upon such official plat, but appearing thereon as land, and since sold and
334 patented by the Government as land according to such official plat, include areas equal to the area of said Cedar Island Lake; and portions of such lakes were purchased by complainants as land with their other purchases in said township.

11. The survey sought to be restrained in this suit was ordered by the Commissioner of the General Land Office, upon the direction of the Secretary of the Interior, in a proceeding instituted by certain settlers upon the land in controversy; of which proceedings the complainants had due notice, and in which they appeared.

The case as presented at the final hearing does not differ in any material respect from the showing upon the motion for the preliminary injunction. If that injunction was properly allowed, a decree for permanent injunction should follow. The order granting that injunction was affirmed by the circuit court of appeals, and Judge Riner's very full and clear presentation of the facts and of the law leaves little that can be added. Kirwan v. Murphy, 83 Fed., 275.

In the surveying, platting, offering for sale, and sale of lands the Government deals as proprietor. The transactions are matters of business; and as between the Government and its patentees, or the purchasers from such patentees, all the rules applicable to private ownership and private sales attach, as in the case of an individual vendor. The Government through its agents and employes makes the surveys, and prepares the plats, according to which it offers for sale and sells its lands. If its agents and employes are negligent or unfaithful, and loss to the Government results, it can not shift that loss upon an innocent purchaser who has bought and received title upon the representations of the plats prepared by the Government and according to which the land is offered for sale, and the sales made, and the title to the lands conveyed by patent.

The question whether the Government, because of the negligence or fraud of its surveyor, has any claim to any part of the land which it has sold and conveyed by patent to the purchaser, is a question which the Land Department of the Government can not assume to determine. The patent passes the title from the Government and takes the land from the jurisdiction of that Department.

"With the title passes away all authority or control of the Executive Department over the land, and over the title which it has conveyed. It would be as reasonable to hold that any private owner of land who has conveyed it to another can, of his own volition, recall, cancel, or
335 annul the instrument which he has made and delivered. If fraud, mistake, error or wrong has been done, the courts of justice present the only remedy. These courts are as open to the United States to sue for the cancellation of the deed or reconveyance of the land as to individuals; and if the Government is the party injured, this is the proper course."

Moore v. Robbins, 96 U. S., 530, 533.

It is admitted that all the land in said township has been sold according to said plat, and conveyed to the purchasers by patents referring to said plat. According to the said patents, and said plat to which they all refer, the Government has conveyed away the title to every acre of land in respect to which the Land Department has assumed to order this survey, the effect of which will be to disturb and cast a cloud upon the titles of the purchasers under these patents. It is admitted that as much in area in deep lakes in said town has, in accordance with said plat, been so sold and patented as land as there is of dry land represented; this deep lake area was purchased as land by complainants.

The Government, as against purchasers in good faith like the complainants, is bound by its own plat in accordance with which it has sold and conveyed all the land in that township. The purchasers must settle their titles and boundaries between themselves; and the Land Department has no longer the right to meddle with the land or cast doubt upon the titles so conveyed.

The case is unlike the cases of Granger v. Swart, 1 Woolworth, 88, and Niles v. Cedar Point Club, 175 U. S., 300. In those cases the plats and field notes showed that the boundary meander lines were not on the banks or margin of navigable water, but of other low lands; so there was no basis for the claim that the meander line merely indicated a natural boundary, or that any riparian rights existed as parcel of the land patented. In the case at bar the meander line is shown on the official plat referred to in the patents as marking the actual margin or bank of Cedar Island Lake, a navigable body of water, and therefore as including in the lots so bounded riparian rights upon that lake.

Neither is this case like that of Horne v. Smith, 159 U. S., 40, where the surveyor obviously surveyed the lot in question to a bayou, which he mistook for and marked as the Indian River. There the bayou was plain and open to be seen, and fitted as the meandered boundary, with all the other calls of the survey. The natural watercourse which was meandered was there and corresponded with the survey and plat; the surveyor was merely mistaken in the name by which he designated the watercourse. Here there was no such mistake; there is no body of water which the meander line will fit except Cedar Island Lake, which is the lake named on the plat.

336

While these fractional lots bordering on Cedar Island Lake, which complainants purchased of the patentees, are much larger in acreage than is represented on the plat, this alone furnishes no grounds to warrant the Land Department in disregarding the patent and assuming to take possession of the excess through a resurvey and selling the same again. In Mitchell v. Smale, 140 U. S., 406, a small fractional lot [or] four and one-half acres, meandered on a lake, was held to include an unsurveyed point running beyond the meander line and into the lake, containing twenty-five acres. And a subsequent survey by the Land Department and patent to another purchaser of twenty-five acres was held invalid.

The court said (page 412):

"We think it a great hardship, and one not to be endured, for the Government officers to make new surveys and grants to the beds of such lakes after selling and granting the lands bordering thereon or represented so to be. It is nothing more nor less than taking from the first

grantee a most valuable, and often the most valuable, part of his grant. Plenty of speculators will always be found, as such property increases in value, to enter it and deprive the proper owner of its enjoyment; and to place such persons in possession under a new survey and grant, and put the original grantee of the adjoining property to his action of ejectment and plenary proof of his own title is a cause of vexatious litigation which ought not to be created or sanctioned. * * * The official plat made from such survey does not show the meander line, but shows the general form of the lake deduced therefrom, and the surrounding fractional lots adjoining and bordering on the same. The patents when issued refer to this plat for identification of the lots conveyed and are equivalent to and have the effect of a declaration that they extend to and are bounded by the lake or stream. Such lake or stream itself, as a natural object or monument, is virtually and truly one of the calls of the description or boundary of the premises conveyed, and all the legal consequences of such a boundary in the matter of riparian rights and title to land under water regularly follow."

See also Hardin v. Jordan, 140 U. S., 371.

In the present case the official plat shows the bank of Cedar Island Lake, a large permanent body of still water, as one of the boundaries of each of the fractional lots here in dispute. This is a natural unchangeable monument and boundary to which courses, distances, and quantities
337 must all give way. The purchasers of these fractional lots from the Government, and later their vendees, the complainants, going upon the ground with a copy of the official map before purchasing, would not find section corners, nor any interior lines in the township; for the evidence shows that nothing of the kind was marked or designated on the ground. The only monument or boundary visible was the bank of Cedar Island Lake, and with that boundary fixed and plain they would form their judgments as to the location, character, and value of the land, and as to the value of the timber thereon, which they were purchasing, as well as of the riparian rights belonging to and parcel of the land. The proposal of the land department now is to take summary possession of this very portion of these lands which the patentees and their vendees the complainants were able to locate with certainty, from the only fixed and visible boundary, and with reference to the value and desirability of which, including the riparian rights, the purchases were made, and allow the same to be now entered by prowling squatters. If the United States has still any valid claim to any portion of these lands the title to which they have conveyed away by patent, they should first establish such claim in a court of justice; and if they can recover any part of any of those lots it is quite certain that it will not be the part which the land department now proposes to take—the very part, including riparian rights, which the patentees and complainants were shown by the plat to be the lands which they were purchasing and which they examined with the view of purchasing, and in fact did purchase and pay for. The evidence shows, as is above stated, that the riparian rights upon this lake were considered by complainants as an important element of value in making their purchases. As stated by Mr. Justice Mitchell in Lamprey v. State, 52 Minn. 181, 197:

"The incalculable mischiefs that would follow if the riparian owner is

liable to be cut off from access to the water, and another owner sandwiched in between him and it, whenever the water line had been changed by accretions and relictions, are self-evident and have frequently been animadverted on by the courts. These considerations apply to riparian ownership on lakes as well as streams. * * * The owners of lands bordering on them have often bought with reference to access to the water, which usually constitutes an important element in the value and desirability of the land. If the rule contended for by the appellants is to prevail, it would simply open the door for prowling speculators to step in and acquire title from the State to any relictions produced in the
338 course of time by the recession of the water, and thus deprive the owner of the original shore estate of all riparian rights, including that of access to the water. The endless litigation over the location of the original water lines, and the grievous practical injustice to the owners of the original riparian estate that would follow would of themselves be a sufficient reason for refusing to adopt any such doctrine."

The Government having sold these fractional lots and conveyed the title thereto to the purchasers by patents which by reference to the plat covered the lands to the banks of Cedar Island Lake, the land department has no jurisdiction or authority to meddle with these lands by making the survey which that department has ordered, and which the defendants were about to make when this suit was begun. If the Government has any right or equity to have such patents corrected because of error or mistake, it must apply to a court having jurisdiction for that relief. And in such case, from the showing made in this suit, the title of the complainants to such portions of such lots as border on said lake as a permanent visible boundary will be the least assailable.

Decree will be entered as prayed for in the bill; and the form thereof, unless agreed to by counsel, may be settled upon two days' notice.

July 5, 1900.

WM. LOCHREN, *Judge.*

(Indorsed:) Filed July 6", 1900. Henry D. Lang, Clerk. By Margaret McKay, Deputy.

United States circuit court, eighth judicial circuit, district of Minnesota, fifth division.

SIMON J. MURPHY, GEORGE O. ROBINSON, ELISHA H. Flinn, and Temple E. Dorr, complainants,
vs.
P. H. KIRWAN, AS UNITED STATES SURVEYOR-general for the district of Minnesota, and Thomas H. Croswell, defendants.
} In equity.

Notice of motion to settle decree.

To ROBERT G. EVANS, *United States District Attorney*, JOHN R. VAN-DERLIP and W. F. BAILEY, *Solicitors for Defts.*

GENTLEMEN:—You will please take notice that on the 23rd day of July next, at ten o'clock in the forenoon, I shall apply to the Honorable

William Lochren, United States district judge, at the Federal court room, in the city of St. Paul, Minnesota, to have settled the form of decree in the above-entitled action.

Yours truly,

M. H. STANFORD,
Solicitor for Complainants, Duluth, Minn.

Dated July 13, 1900.

339 United States circuit court, district of Minnesota, eighth judicial circuit, fifth division.

SIMON J. MURPHY ET AL., COMPLAINANTS,
vs.
P. H. KIRWAN, ETC., ET AL., DEFENDANTS. } In equity.

Affidavit.

STATE OF MINNESOTA,
County of St. Louis, ss:

Alfred L. Thwing, being duly sworn, says that he is a resident of the city of Duluth, Minnesota, and is over twenty-one years of age; that he is a clerk in the office of M. H. Stanford, the solicitor for the complainants in the above-entitled action, who resides at said city of Duluth; that on the thirteenth day of July, 1900, at said city of Duluth, he served a notice of which the annexed is a copy on each of the following-named persons, to wit: On Robert G. Evans, United States district attorney, on John R. Vanderlip, and on W. F. Bailey, all being solicitors and of counsel for the defendants in said above-entitled action, and named in said notice; that he served said notice on each of them by depositing in the post-office at said city of Duluth three of said notices, each of which was enclosed in a suitable sealed envelope, with postage prepaid thereon; one of such envelopes being addressed to Robert G. Evans, esq., U. S. dist. atty., custom-house bldg., St. Paul, Minn., one to John R. Vanderlip, esq., 335 Lumber Exchange, Minneapolis, Minn., and one to W. F. Bailey, esq., atty. at law, Eau Claire, Wis.; that affiant made such services at the request of said solicitor for the complainants.

ALFRED L. THWING.

Subscribed and sworn to before me this 21st day of July, 1900.

[NOTARIAL SEAL.]

M. H. STANFORD,
Notary Public, St. Louis Co., Minn.

(Indorsed:) Filed July 23d, 1900. Henry D. Lang, clerk.

United States circuit court for the district of Minnesota.

Term minutes, June term, A. D. 1900, July 23d, 1900.

MONDAY MORNING.

Court opened pursuant to adjournment.

Present: Hon. William Lochren, Hon. Charles F. Amidon, judges; Hon. Robert G. Evans, U. S. district attorney; Hon. William H. Grimshaw, U. S. marshal; Henry D. Lang, clerk.

SIMON J. MURPHY, GEORGE O. ROBINSON, Elisha H. Flinn, and Temple E. Dorr,
vs.
P. H. KIRWAN, AS UNITED STATES SURVEYOR-GENERAL for the district of Minnesota, and Thomas H. Croswell.

Duluth case No. 254. Before Judge Lochren.

This cause coming on to be heard upon the notice heretofore
340 given returnable on the 23rd day of July, A. D. 1900, at ten o'clock in the forenoon at the Federal court room in the city of St. Paul, Minnesota, to have settled the form of the decree in this cause, the parties appear by their respective solicitors. M. H. Stanford, esq., appearing for the complainants and Robert G. Evans, esq., appearing for the defendants, and after hearing the statements and arguments of the solicitors for the respective parties and upon certain consents and agreements made in open court, the court settles and signs the form of decree to be entered in this cause.

* * * * * * *

A true record.
Attest: HENRY D. LANG, *Clerk.*

UNITED STATES OF AMERICA,
District of Minnesota, third division, ss.:

I, Henry D. Lang, clerk of the circuit court of the United States for the district of Minnesota, do hereby certify that I have carefully compared the foregoing paper writing with the original thereof, which is in my custody as such clerk, and that the said paper writing is a correct copy of such original and of the whole thereof, in the cause therein named.

Witness my hand as clerk, and the seal of said court. Done at my office in Saint Paul, Minnesota, this 24th day of July, A. D. 1900.

[SEAL OF THE COURT.] HENRY D. LANG, *Clerk,*
By LOUISE B. TROTT, *Deputy.*

(Indorsed:) Filed July 25", 1900. Henry D. Lang, clerk, by Margaret McKay, deputy.

UNITED STATES OF AMERICA.

United States circuit court, district of Minnesota, eighth judicial circuit, fifth division.

SIMON J. MURPHY, GEORGE O. ROBINSON, Elisha H. Flinn, and Temple E. Dorr, complainants,
vs.
P. H. KIRWAN, AS UNITED STATES SURVEYOR-GENERAL for the district of Minnesota, and Thomas H. Croswell, defendants.

In equity. Decree.

This cause having been brought to a final hearing upon pleadings and proofs before said court, at the October, 1899, term thereof, and M. H. Stanford having been heard on the part of the complainants, and Robert G. Evans, United States district attorney, John R. Vanderlip, and W.

F. Bailey on the part of the defendants, and the same having been duly considered by the court, it is found and hereby ordered, adjudged, and decreed:

341 That the complainants are the grantees and owners, by mesne conveyances from the patentees, of the title of record and, in fact, to the following-described fractional lots, situate in township fifty-seven (57) north, range seventeen (17) west, in the county of St. Louis, State of Minnesota, to wit: Lots one (1), two (2), and three (3) of section two (2), lots one (1) and two (2) of section three (3), lots one (1) and eight (8) and portions of lots three (3), five (5), and six (6) of section four (4); lots one (1), two (2), three (3), and four (4) of section nine (9); lots one (1), two (2), three (3), and four (4) of section ten (10), and lot three (3) of section eleven (11), being the same lands which are more particularly described in the complainants' bill of complaint herein; and that said above-described fractional lots extend to and are bounded by and upon the actual waters of Cedar Island Lake.

It is further ordered, adjudged, and decreed that the defendants have no jurisdiction or authority to meddle with said lands or to make the survey complained of in the bill of complaint herein; and

It is further ordered, adjudged, and decreed that the injunction heretofore issued in this cause be and the same is hereby made perpetual, and that the said defendants and their successors, representatives, and assigns be and they are hereby severally and perpetually restrained and enjoined from surveying or causing to be surveyed the lands hereinbefore described, or any part thereof.

It is further ordered, adjudged, and decreed that the complainants recover costs against the defendants in favor of the complainants in the Supreme Court of the United States in this action, according to the mandate and order of the United States circuit court of appeals, dated October 4, 1898, for the sum of ninety-nine dollars ($99.00), now of record in this court.

July 23, 1900. WM. LOCHREN, *Judge*.

(Indorsed:) Filed July 25", 1900. Henry D. Lang, clerk, by Margaret McKay, deputy. Ent'd term minutes, vol. 3, pp. 75–6–7, Oct. 9", 1900.

UNITED STATES OF AMERICA.

United States circuit court, district of Minnesota, eighth judicial circuit, fifth division.

SIMON J. MURPHY, GEORGE O. ROBINSON, ELISHA A. FLINN, and TEMPLE E. DORR, complainants,
vs.
P. H. KIRWAN, AS UNITED STATES SURVEYOR-general for the district of Minnesota, and THOMAS H. CROSWELL, respondents.
} Petition for appeal.

342 The above-named respondents, conceiving themselves aggrieved by the decree of the circuit court above named, dated the 25th day of July, A. D. 1900, and duly entered in said cause, by direction of the Department of Justice of the United States Government

hereby appeal from said decree to the United States circuit court of appeals for the eighth circuit; and they pray that this, their appeal, may be allowed, and that a transcript of the record and papers and proceedings upon which said decree was made and entered, duly authenticated, may be sent to the United States circuit court of appeals for the eighth circuit; and that said decree may be by said circuit court of appeals reversed.

Dated December 3rd, A. D. 1900.

ROBERT G. EVANS,
United States Attorney, Solicitor for Respondents.

W. F. BAILEY and JOHN R. VANDERLIP,
Of Counsel.

On this 3rd day of December, A. D. 1900, it is ordered that the appeal be allowed in the above-entitled cause, as prayed for in the foregoing petition, and it appear-' that said appeal is taken pursuant to direction of the Department of Justice of the United States, no bond is required.

WM. LOCHREN,
District Judge, of the District of Minnesota, holding the Circuit Court.

(Indorsed:) Filed December 3", 1900. Henry D. Lang, clerk, by Margaret McKay, deputy clerk.

UNITED STATES OF AMERICA.

United States circuit court, district of Minnesota, eighth jndicial circuit, fifth div'sion.

SIMON J. MURPHY, GEORGE O. ROBINSON, Elisha A. Flinn, and Temple E. Dorr, complainants,
vs.
P. H. KIRWAN, AS UNITED STATES SURVEYOR-GENERAL for the district of Minnesota, and Thomas H. Croswell, defendants.
} Assignment of errors.

Come now the respondents in the above-entitled cause and file the following assignment of errors, upon which they and each of them rely:

First. That said circuit court erred in making and entering its decree, dated July 25th, 1900, in this action, for the reason that said court had no jurisdiction of the subject-matter of said suit authorizing the making and entering of such decree.

343 Second. That said circuit court erred in making and entering its decree, in this action, dated July 25th, 1900, for the reason that said circuit court had no jurisdiction of the respondents.

Third. That said circuit court erred in making and entering its decree, in this action, dated July 25th, 1900, perpetually restraining the respondents from making a survey of the land referred to in the bill, for the reason that said decree was not justified by the facts found by the court and appearing in the record.

Fourth. That said circuit court erred in making and entering its decree in this action, dated July 25th, 1900, perpetually restraining the defendants from making a survey of the land referred to in the bill, for the reason that said decree, under the facts found by the court and appearing in the record, was not justified by law.

Fifth. That said circuit court erred in not dismissing the bill of complaint herein upon the merits as disclosed by the record and proceedings herein.

Sixth. That said circuit court erred in not dismissing the bill in this action for the reason that it appears upon the face of said bill that it does not state any cause of action of which said court could take cognizance.

Seventh. That said circuit court erred in making and entering its decree in this action, dated July 25th, 1900, perpetually restraining the respondents from making a survey of the lands referred to in the bill of complaint, for the reason that it affirmatively appears from the undisputed facts in the record that they were not sufficient to invoke the equitable jurisdiction of said court.

Eighth. The said circuit court erred in making and entering its decree in this action, dated July 25th, 1900, perpetually restraining the defendants from making a survey of the lands referred to in the bill of complaint, for the reason that it affirmatively appears from the undisputed fact that no irreparable injury to the complainants will follow from the acts of the respondents in making a survey of the lands in question.

Ninth. That the said circuit court erred in making and entering its decree in this action, dated July 25th, 1900, perpetually restraining the respondents from making a survey of the lands referred to in the bill of complaint, for the reason that it affirmatively appears from the undisputed evidence appearing in the record and as an established fact that the decree as rendered will not prevent a multiplicity of suits.

344 Tenth. That the said circuit court erred in making and entering its decree in this action, dated July 25th, 1900, perpetually restraining the respondents from making a survey of the lands referred to in the bill of complaint, for the reason that said decree was not justified by the facts established by the undisputed evidence and appearing in the record.

Eleventh. That the said circuit court erred in making and entering its decree in this action, dated July 25th, 1900, perpetually restraining respondents from making a survey of the lands referred to in the bill, for the reason that it affirmatively appears from the undisputed facts appearing in the record that the complainants had no right, title, or interest in the lands to be surveyed as charged in the bill, and were not entitled to maintain the suit or to the relief granted by the decree.

Twelfth. That the said circuit court erred in making and entering its decree in this action, dated July 25th, 1900, for the reason that said court had no power or jurisdiction to restrain or enjoin the survey of the lands described in said bill of complaint as ordered by the Interior Department, said department being an executive branch of the Government of the United States, and as such having sole charge of the public lands thereof.

Thirteenth. That the said circuit court erred in making and entering its decree in this action, dated July 25th, 1900, for the reason that the

undisputed facts appearing in the record show that the complainants herein were not purchasers in good faith of the lands described in the bill of complaint.

Fourteenth. That said circuit court erred in making and entering its decree in this action, dated July 25th, 1900, in holding that the patentees under whom complainants claim title to the lands described in said bill of complaint had no notice or knowledge of any fraud or misconduct in the making of the survey and field notes set out in the record herein, and that they were purchasers in good faith of the lands in question.

Fifteenth. That said circuit court erred in making and entering its decree in this action, dated July 25th, 1900, in finding that the complainants, at the time they claimed to have purchased the lands described in the bill of complaint, had no notice of the fraud and irregularities of the pretended survey of the lands.

Sixteenth. That said circuit court erred in making and entering its decree in this action, dated July 25th, 1900, for the reason that it appears from the undisputed facts of record herein that complainants and those under whom they claim had full notice and knowledge of the facts that no survey had ever been made of the lands described in said bill of complaint.

345 Wherefore the said respondents pray that the decree entered in this cause in the above-entitled court be vacated and set aside, and that the said circuit court be ordered to dismiss the bill of complainants herein with costs or to take such other action in the case as may be directed by the said circuit court of appeals for the eighth circuit.

ROBERT G. EVANS,
United States Attorney, Solicitor for Respondents.

W. F. BAILEY and JOHN R. VAN DERLIP,
Of Counsel.

(Indorsed:) Filed Dec. 3", 1900. Henry D. Lang, clerk. By Margaret McKay, deputy clerk.

In the United States circuit court in and for the district of Minnesota, fifth division.

SIMON J. MURPHY, GEORGE O. ROBINSON, ELISHA A. Flinn, and Temple E. Dorr, complainants,
vs.
P. H. KIRWAN, AS UNITED STATES SURVEYOR-general for the district of Minnesota, and Thomas H. Crosswell, respondents.
} Stipulation.

It is hereby stipulated and agreed by and between the parties to the above-entitled cause and their respective counsel that the printed record as used on the final hearing in this case, in the United States circuit court, fifth division, district of Minnesota, with the decision, decree, the record of hearing, and proceedings on appeal, shall constitute the return of the

court below to the circuit court of appeals, eighth circuit, in the appeal in this case.

M. H. STANFORD,
Solicitor for Complainants.
ROBT. G. EVANS,
Solicitor for Respondents.

Dated Dec. 14, A. D. 1900.

(Indorsed:) Filed December 17", 1900. Henry D. Lang, clerk. By Margaret McKay, deputy clerk.

In the United States circuit court in and for the district of Minnesota, fifth division.

SIMON J. MURPHY, GEORGE O. ROBINSON, ELISHA A. Flinn, and Temple E. Dorr, complainants,
vs.
P. H. KINWAN, AS UNITED STATES SURVEYOR-general for the district of Minnesota, and Thomas H. Croswell, respondents.
} Stipulation.

It is hereby stipulated and agreed by and between the parties in
346 this cause that an order may be made directing the clerk of the United States circuit court to transmit to the clerk of the United States circuit court of appeals, eighth circuit, complainants' original Exhibit D and defendants' original Exhibit No. 1, to be used in the hearing of the appeal in the United States circuit court of appeals, and thereafter said exhibits are to be returned to the clerk of the United States circuit court for the district of Minnesota.

M. H. STANFORD,
Solicitor for Complainants.
ROBT. G. EVANS,
Solicitor for Respondents.

Dated Dec. 14, 1900.

On reading the above stipulation it is hereby ordered that the clerk of the United States circuit court transmit complainants' original Exhibit D and defendants' original Exhibit No. 1 to the clerk of the United States circuit court of appeals, 8th circuit, to be used on the hearing of the appeal in said case, and thereafter said exhibits are to be returned to the clerk of the United States circuit court for the district of Minnesota.

WM. LOCHREN, *Judge.*

Dated St. Paul, Dec. 19, 1900.

(Indorsed:) Filed Dec. 20, 1900. Henry D. Lang, clerk. By Margaret McKay, deputy clerk.

UNITED STATES OF AMERICA.

United States circuit court, district of Minnesota, eighth judicial circuit, fifth division.

SIMON J. MURPHY, GEORGE O. ROBINSON, ELISHA A. Flinn, and Temple E. Dorr, complainants,
vs.
P. H. KIRWAN, AS UNITED STATES SURVEYOR-general for the district of Minnesota, and Thomas H. Croswell, respondents.
} Citation.

United States of America, to Simon J. Murphy, George O. Robinson, Elisha A. Flinn, and Thomas E. Dorr, greeting:

You and each of you are hereby cited and admonished to be and appear in the United States circuit court of appeals for the eighth circuit, at the city of St. Louis, sixty days from and after the day this citation bears date, pursuant to an appeal allowed and filed in the clerk's office of the United States circuit court, wherein P. H. Kirwan, as United States surveyor-general for the district of Minnesota, and Thomas H. Croswell, are appellants, and you are appellees, to show cause, if any there be, why the decree rendered against the said appellants, as in said appeal men-
347 tioned should not be corrected, and why speedy justice should not be done the parties in that behalf.

Witness, the honorable William Lochren, judge of the United States district court, this 3rd day of December, A. D. 1900.

WM. LOCHREN,
Judge of the United States District Court.

Due service of the within citation is hereby admitted this 7 day of December, A. D. 1900.

M. H. STANFORD,
Solicitor for Simon J. Murphy, George O. Robinson, Elisha A. Flinn, Temple E. Dorr.

Orig. Entered, No. 254. United States circuit court, district of Minnesota, fifth division. Simon J. Murphy et al. vs. P. H. Kirwan, as U. S. surveyor-general et al., defendant. Citation. Filed December 11", 1900. Henry D. Lang, clerk. By Margaret McKay, deputy clerk.

UNITED STATES OF AMERICA,

Circuit court of the United States, district of Minnesota, fifth division.

I, Henry D. Lang, clerk of said circuit court, do hereby certify and return to the honorable the United States circuit court of appeals for the eighth circuit, that the foregoing, consisting of 359 pages, numbered consecutively from 0 to 359, is a true and complete transcript of the records, process, pleadings, orders, decision, final decree, and all other proceedings in said cause, as stipulated by counsel for all the parties hereto, which said stipulation is included in this record at page 354, and the whole thereof, as appears from the original records and files of said court;

and I do further certify and return that I have annexed to said transcript and included within said paging the original citation, together with the proof of service thereof.

In witness whereof I have hereunto set my hand and affixed the seal of said court, at Duluth, in the district of Minnesota, this 20th day of December, A. D. 1900.

[Seal.
U. S. circuit court,
dist. of Minnesota.
fifth division.]

HENRY D. LANG, *Clerk*,
By THOS. H. PRESSNELL, *Deputy*.

[Ten cents canceled rev. stamp.]
Filed Dec. 22, 1900. John D. Jordan, clerk.

348 APPEARANCE FOR APPELLANTS.

And on the twenty-sixth day of December, A. D. 1900, an appearance of Mr. Robert G. Evans, as counsel for the appellants, was filed in the clerk's office of said circuit court of appeals, in said cause, in the words and figures following, to wit:

United States circuit court of appeals, eighth circuit.

P. H. KIRWAN, SURVEYOR-GENERAL, ETC., ET AL., appellants, *vs.* SIMON J. MURPHY ET AL.	No. 1526.

The clerk will enter my appearance as counsel for the appellants.

ROBERT G. EVANS,
United States Attorney.

(Endorsed:) U. S. circuit court of appeals, eighth circuit. No. 1526. P. H. Kirwan, surveyor-general, etc., et al., appellants, vs. Simon J. Murphy et al. Appearance. Filed Dec. 26, 1900, John D. Jordan, clerk. Robert G. Evans, U. S. att'y, counsel for appellants.

APPEARANCE FOR APPELLEES.

And on the twenty-ninth day of January, A. D. 1901, an appearance of counsel for the appellees was filed in the clerk's office of said circuit court of appeals, in said cause, in the words and figures following, to wit:

SIMON J. MURPHY, GEORGE O. ROBINSON, ELISH H. Flinn, and Temple E. Dorr, respondents, *vs.* P. H. KIRWAN, AS UNITED STATES SURVEYOR-GENeral for the district of Minnesota, and Thomas H. Croswell, appellants.	In equity. Precepie for appearance.

The clerk of this court will please enter my appearance as solicitor and counsel for respondents in the above-entitled case.

Dated January 28", 1901.

M. H. STANFORD,
Solicitor and Counsel for Respondents.

349 To JOHN D. JORDAN,
Clerk of sd. court:

(Endorsed:) 1526. United States circuit court of appeals. In equity. Eighth circuit. Simon J. Murphy et al., respondents, vs. P. H. Kirwan, U. S. surveyor-gen. for district of Minnesota, and another, appellants. Appearance appellees. Filed Jan. 29, 1901. John D. Jordan, clerk. M. H. Stanford, solicitor and counsel for respondents, Duluth, Minn. Office, 401 and 2 Exchange Bldg.

APPEARANCE FOR APPELLANTS.

And on the fourteenth day of May, A. D. 1901, an appearance of Mr. W. F. Bailey, as counsel for the appellants, was filed in the clerk's office of said circuit court of appeals, in said cause, in the words and figures following, to wit:

United States circuit court of appeals, eighth circuit.

P. H. KIRWAN, U. S. SURVEYOR-GENERAL, et al., appellants, *vs.* SIMON J. MURPHY ET AL. } No. 1526.

The clerk will enter my appearance as counsel for the appellants.
W. F. BAILEY.

(Endorsed:) U. S. circuit court of appeals, eighth circuit. No. 1526. P. H. Kirwan, etc., et al. appellants, vs. Simon J. Murphy et al. Appearance. Filed May 14, 1901. John D. Jordan, clerk. W. F. Bailey, Eau Claire, Wis., counsel for appellants.

ORDER OF SUBMISSION.

And on the fifteenth day of May, A. D. 1901, in the record of the proceedings of said circuit court of appeals is an order of submission in said cause, in the words and figures following, to wit:

United States circuit court of appeals, eighth circuit, May term, 1901.

WEDNESDAY, *May 15, 1901.*

350 P. H KIRWAN, AS UNITED STATES surveyor-general, etc., et al., appellants, *vs.* SIMON J. MURPHY ET AL. } No. 1526. Appeal from the circuit court of the United States for the district of Minnesota.

This cause having been called for hearing in its regular order, argument was commenced by Mr. W. F. Bailey for the appellants and concluded by Mr. M. H. Stanford for the appellees.

Thereupon, this cause was submitted to the court on the transcript of record from said circuit court and the briefs of counsel filed herein.

OPINION.

And on the twentieth day of May, A. D. 1901, an opinion of said United States circuit court of appeals was filed in said cause, in the words and figures following, to wit:

351 United States circuit court of appeals, eighth circuit.

P. H. KIRWAN, AS UNITED STATES SURVEYOR-GENERAL for the district of Minnesota, and Thomas H. Crosswell, appellants,
vs.
SIMON J. MURPHY, GEORGE O. ROBINSON, Elisha A. Flinn, and Temple E. Dorr, appellees.

No. 1526. May term, A. D. 1901. Appeal from the circuit court of the United States for the district of Minnesota.

Mr. W. F. Bailey (Mr. Robert G. Evans and Mr. John R. Vanderlip were with him on the brief) for appellants.

Mr. M. H. Stanford for appellees.

Before Sanborn and Thayer, circuit judges, and Adams, district judge.

SANBORN, circuit judge, delivered the opinion of the court.

The facts presented by the record upon the final hearing of this case do not differ essentially from those presented on the appeal from the order granting the injunction. Kirwan v. Murphy, 83 Fed., 272, 286, 289; Murphy v. Kirwan, 103 Fed., 104. The United States surveyed and platted the land about Cedar Lake and then patented the tracts which the complainants now own, according to its plats, which showed that these tracts extended to and were bounded by the lake. It made no attempt to correct its survey, and gave no warning that it claimed it to be erroneous until after the complainants had purchased of its patentees and had paid full value for the land on the theory that it extended to and bordered upon the lake, and in reliance upon the plats and patents of the Government which disclosed this fact. It is too late now for the United States to correct this survey and thereby to revoke its grants after innocent purchasers have bought of its patentees in reliance upon them. Our views upon the questions presented here have been
352 so completely expressed in the opinions in Kirwan v. Murphy, 83 Fed., 272, 286, 289, and Murphy v. Kirwan, 103 Fed., 104, that another opinion would be but a repetition of the rules and reasoning there set forth. The decree below is accordingly affirmed on the authority of those opinions and of Railroad Co. v. Schurmeier, 74 U. S., 272, 286, 289; Hardin v. Jordan, 140 U. S., 371, 380; Mitchell v. Smale, 140 U. S., 406, 414; Cragin v. Powell, 128 U. S., 691, 696, 697, 699; McIvers' Lessee v. Walker, 9 Cranch, 173–177; St. Paul, Stillwater & Taylor's Falls R. Co. v. First Division R. Co., 26 Minn., 31, 34, and United States v. Winona & St. Peter Railroad Co., 67 Fed., 948, 960–964.

Filed May 20, 1901.

353 DECREE.

And on the twentieth day of May, A. D. 1901, in the record of the proceedings of said United States circuit court of appeals is a decree in said cause, in the words and figures following, to wit:

United States circuit court of appeals, eighth circuit, May term, 1901.

MONDAY, *May 20, 1901.*

P. H. KIRWAN, AS UNITED STATES SURVEYOR-general for the district of Minnesota, and Thomas H. Crosswell, appellants,
vs.
SIMON J. MURPHY, GEORGE O. ROBINSON, ELISHA A. Flinn, and Temple E. Dorr.

No. 1526. Appeal from the circuit court of the United States for the district of Minnesota.

This cause came on to be heard on the transcript of the record from the circuit court of the United States for the district of Minnesota, and was argued by counsel.

On consideration whereof it is now here ordered, adjudged, and decreed by this court, that the decree of the said circuit court, in this cause, be, and the same is hereby, affirmed without costs to either party in this court.

May 20, 1901.

PETITION FOR AND ORDER ALLOWING APPEAL.

And on the eighth day of August, A. D. 1901, there was filed in the clerk's office of said circuit court of appeals a petition for and order allowing an appeal to the Supreme Court of the United States, in said cause, in the words and figures following, to wit:

United States circuit court of appeals, eighth circuit.

354 P. H. KIRWAN, AS UNITED STATES SURVEYOR-general for the district of Minnesota, and Thomas H. Croswell, appellants,
vs.
SIMON J. MURPHY, GEORGE O. ROBINSON, ELISHA A. Flinn, and Temple E. Dorr, appellees.

No. 1526. Petition for appeal.

The above-named appellants, conceiving themselves aggrieved by the decree of the United States circuit court of appeals, eighth circuit, entered in said case on the 20th day of May, 1901, by direction of and under the authority of the Department of Justice of the United States of America, hereby appeal from said decree to the Supreme Court of the United States, and they pray that this their appeal may be allowed and that a transcript of the record, proceedings, papers, and maps upon which said decree was made and entered, duly authenticated, may be sent to the United States

COPY BOUND CLOSE IN CENTER

Supreme Court, and that said decree may be by said United States Supreme Court reversed.

Dated August 1st, 1901.

ROBERT G. EVANS,
Attorney of the United States for the District of Minnesota,
Solicitor for Appellants.

W. F. BAILEY and JOHN R. VANDERLIP,
Of Counsel.

On this eighth day of August, A. D. 1901, it is ordered, that the appeal be allowed in the above-entited case as prayed for in the foregoing petition, and it appearing that said appeal is taken pursuant to direction of the Department of Justice of the United States no bond is required.

AMOS M. THAYER,
Judge of the United States Circuit Court of Appeals, Eighth Circuit.

(Endorsed:) United States circuit court of appeals, eighth circuit. No. 1526. P. H. Kirwan, as U. S. surveyor-general for the district of Minnesota, and Thomas H. Croswell, appellants, vs. Simon J. Murphy et al., appellees. Petition for and order allowing an appeal to Supreme Court U. S. Filed Aug. 8, 1901. John D. Jordan, clerk.

355

ASSIGNMENT OF ERRORS.

And on the eighth day of August, A. D. 1901, there was filed in the clerk's office of said circuit court of appeals an assignment of errors, in said cause, in the words and figures following, to wit:

United States circuit court of appeals, eighth circuit.

P. H. KIRWAN, AS UNITED STATES SURVEYOR-general for the district of Minnesota, and Thomas H. Croswell, appellants, *vs.* SIMON J. MURPHY, GEORGE O. ROBINSON, ELISHA A. FLINN, and TEMPLE E. DORR, appellees.	No. 1526. Assignment of errors.

And now in the foregoing-entitled case and at the time of filing therein their petition for appeal, come the said appellants, P. H. Kirwan, as United States surveyor-general for the district of Minnesota, and Thomas H. Croswell, by Robert G. Evans, esq., attorney of the United States for the district of Minnesota, hereunto lawfully authorized and directed by the honorable Attorney-General of the United States, and say that in the record and proceedings in the above-entitled case there is manifest error in this, to wit, that the circuit court of appeals erred:

First. In holding that the circuit court of the United States for the district of Minnesota had jurisdiction of the subject-matter of said suit authorizing the making and entering of the decree affirmed by said circuit court of appeals.

Second. In holding that the said circuit court of the United States had jurisdiction of the appellants.

Third. In affirming the decree of the said circuit court for the district of Minnesota, perpetually restraining appellants from making a survey of the land referred to in the bill, for the reason that said decree was not justified by the facts found by the circuit court and appearing
356 in the record.

Fourth. In making and entering its decree in this case dated May 20th, 1901, perpetually restraining appellants from making a survey of the land referred to in the bill of complaint, for the reason that said decree, under the facts found by the court before which said cause was tried and appearing in the record, was not justified by law.

Fifth. In affirming the decree entered in this case by the said circuit court of the United States for the district of Minnesota, for the reason that upon the merits as disclosed by the record and proceedings herein said decree should have been reversed.

Sixth. In affirming the decree rendered by the circuit court of the United States for the district of Minnesota, for the reason that it appears upon the face of said bill in said action that it does not state any cause of action of which said court could take cognizance.

Seventh. In affirming the decree made by the said circuit court for the district of Minnesota, perpetually restraining appellants from making a survey of the land referred to in the bill of complaint, for the reason that it affirmatively appears from the undisputed facts in the record that they were not sufficient to invoke the equitable jurisdiction of the said circuit court.

Eighth. In affirming the decree entered by the said circuit court for the district of Minnesota, perpetually restraining the appellants from making a survey of the land referred to in the bill of complaint, for the reason that it affirmatively appears from the undisputed facts that no irreparable injury to the appellees will follow from the acts of the appellants in making a survey of the land in question.

Ninth. In affirming the decree of the said circuit court for the district of Minnesota, perpetually restraining the appellants from making a survey of the land referred to in the bill of complaint, for the reason that it affirmatively appears from the undisputed evidence as appearing in the record and as an established fact, that the decree as rendered will not prevent a multiplicity of suits.

357 Tenth. In affirming the decree of the said circuit court for the district of Minnesota, perpetually restraining appellants from making a survey of the land referred to in the bill of complaint, for the reason that said decree was not justified by the facts established by the undisputed evidence and appearing in the record.

Eleventh. In affirming the decree of the said circuit court for the district of Minnesota, perpetually restraining appellants from making a survey of the lands referred to in the bill of complaint, for the reason that it affirmatively appears from the undisputed facts appearing in the record that the appellees have not and have never had any right, title, or interest in the lands to be surveyed, and were not entitled to commence or maintain the suit or to the relief granted by the decree.

Twelfth. In affirming the decree of the said circuit court for the district of Minnesota, for the reason that said court had no power or jurisdiction to restrain or enjoin a survey of the lands described in said bill of

complaint, as ordered by the Interior Department of the United States, said Department being an executive branch of the Government of the United States, and as such having sole charge of the public lands thereof.

Thirteenth. In affirming the decree of the said circuit court for the district of Minnesota, for the reason that the undisputed facts appearing in the record show that the appellees herein were not purchasers in good faith of the lands described in the bill of complaint.

Fourteenth. In affirming the decree of the said circuit court for the district of Minnesota, holding that the patentees, from whom the appellees claimed title to the land described in said bill of complaint, had no notice or knowledge of any fraud or misconduct in the making of the survey and field notes set out in the record herein, and that they were purchasers in good faith of the land in question.

Fifteenth. In affirming the decree of the said circuit court of the United States for the district of Minnesota, holding that the appellees at the time they claimed to have purchased the lands described in the bill of complaint had no notice of fraud or irregularities of the pretended
358 survey of the lands therein described.

Sixteenth. In affirming the decree of the said circuit court for the district of Minnesota, for the reason that it appears from the undisputed facts of record herein that the appellees herein and those under whom they claimed had full notice and knowledge of the facts that no survey had ever been made of the lands described in said bill of complaint.

Seventeenth. In holding that the United States had made no attempt to correct its survey and gave no warning that it claimed it to be erroneous until after the appellees had purchased of its patentees and had paid full value for the land, on the theory that it extended to and bordered upon the lake, and in reliance upon the plats and patents of the Government which disclosed this fact, for the reason that it appears from the evidence and record in this case that no survey of the lands described in the bill was ever made, and that the purchasers of said land had full knowledge and notice of the fact that no survey had been made.

Eighteenth. In holding that it is too late now for the United States to correct said survey and thereby to revoke its grants, after innocent purchasers have bought of its patentees in reliance upon them, for the reason that no survey of the lands described in the bill was ever made, that the United States is not subject to laches, and that it does not appear in this case that the persons claiming to hold said lands are innocent purchasers, but, on the contrary, it appears that they and their predecessors, from whom they bought, and the patentees of the United States, had full knowledge and notice that no survey of said lands had been made and of the fraud and mistake in the making of a pretended survey of said lands.

Nineteenth. In making and entering its decree herein, dated May 20th, 1901, for the reason that it affirmatively appears from the record, as a matter of fact and law, that the lands attempted and ordered to be surveyed, as stated in the bill of complaint herein, were lands belonging to the Government of the United States, as to which appellees had no right, title, or interest, and for the further reason that the right to determine the time and manner of survey or to correct mistakes in the survey is one belonging to the Government.

359 Twentieth. In making and entering its decree herein for the reason that it affirmatively appears that if the appellees are

entitled to any relief whatever that such relief is enforc'able at law and not in equity.

Wherefore the said appellants pray that the decree of the said circuit court of appeals of the United States for the eighth circuit in the above-entitled case be reversed and set aside.

ROBERT G. EVANS,
Attorney of the United States for the District of Minnesota,
Solicitor for Appellants.

W. F. BAILEY and JOHN R. VAN DERLIP,
Of Counsel.

(Endorsed:) United States circuit court of appeals, eighth circuit. No. 1526. P. H. Kirwan, as U. S. surveyor-general for district of Minnesota, and Thomas H. Crosswell, appellants, vs. Simon J. Murphy, George O. Robinson, Elisha A. Flinn, and Temple E. Dorr, appellees. Assignment of errors. Filed Aug. 8, 1901. John D. Jordan, clerk.

CITATION.

And on the twenty-second day of August, A. D. 1901, there was filed in the clerk's office of said circuit court of appeals, in said cause, a citation the original of which, with admission of service thereon, is hereto attached and herewith returned.

360 United States circuit court of appeals, eighth circuit.

P. H. KIRWAN, AS UNITED STATES SURVEYOR-general for the district of Minnesota, and Thomas H. Croswell, appellants, *vs.* SIMON J. MURPHY, GEORGE O. ROBINSON, ELISHA A. Flinn, and Temple E. Dorr, appellees.	No. 1526. Citation.

United States of America to Simon J. Murphy, George O. Robinson, Elisha A. Flinn, and Temple E. Dorr, greeting:

You and each of you are hereby cited and admonished to be and appear in the United States Supreme Court, at the city of Washington, thirty days from and after the day this citation bears date, pursuant to an appeal allowed and filed in the clerk's office of the United States circuit court of appeals, wherein P. H. Kirwan, as United States surveyor-general for the district of Minnesota, and Thomas H. Croswell are appellants and you are appellees, to show cause, if any there be, why the decree rendered against the said appellants as in said appeal mentioned should not be corrected and why speedy justice should not be done the parties in that behalf.

Witness the honorable Amos M. Thayer, judge of the United States circuit court of appeals, eighth circuit, this 8th day of Aug., A. D. 1901.

AMOS M. THAYER,
United States Circuit Judge, Eighth Circuit.

Due service of the within citation is hereby admitted this 12th day of Aug., A. D. 1901, at Duluth, Minn.

M. H. STANFORD,
Solicitor for Simon J. Murphy, George O. Robinson, Elisha A. Flinn, and Temple E. Dorr.

361 (Indorsed:) Original. United States circuit court of appeals, eighth circuit. No. 1526. P. H. Kirwan, as United States surveyor-general for the district of Minnesota, and Thomas H. Croswell, appellants, vs. Simon J. Murphy, George O. Robinson, Elisha A. Flinn, and Temple E. Dorr, appellees. Citation filed Aug. 22, 1901. John D. Jordan, clerk.

362 CLERK'S CERTIFICATE.

United States circuit court of appeals, eighth circuit.

I, John D. Jordan, clerk of the United States circuit court of appeals for the eighth circuit, do hereby certify that the foregoing three hundred and sixty-two pages contain full, true, and complete copies of all the pleadings, proceedings, and record entries, including the opinion of said circuit court of appeals, except the petition of the appellants for an injunction pendente lite and the order denying said petition, in the case of P. H. Kirwan, as United States surveyor-general for the district of Minnesota, and Thomas H. Croswell, appellants, vs. Simon J. Murphy et al., appellees, No. 1526, May term, 1901, as full, true, and complete as the same remain on file and of record in my office.

I do further certify that the original citation, with admission of service thereon, is hereto attached and herewith returned.

In testimony whereof I hereunto subscribe my name and affix the seal of said United States circuit court of appeals at the city of St. Louis, Missouri, this twenty-third day of August, A. D. 1901.

[SEAL.] JOHN D. JORDAN,
Clerk of the United States Circuit Court of Appeals For the Eighth Circuit.

363 (Indorsement on cover:) File No., 18261. U. S. circuit ct. of appeals, 8th circuit. Term No., 408. P. H. Kirwan, as United States surveyor-general for the district of Minnesota, and Thomas H. Croswell, appellants, vs. Simon J. Murphy, George O. Robinson, Elisha A. Flynn, and Temple E. Dorr. Filed September 6, 1901.

O